SSI EQUITABLE IMPROVEMENTS AND REFORM AMENDMENTS OF 1984

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5341

TO AMEND TITLE XVI OF THE SOCIAL SECURITY ACT TO MAKE NECESSARY IMPROVEMENTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM WITH THE OBJECTIVE OF ASSURING THAT SUCH PROGRAM WILL MORE REALISTICALLY AND MORE EQUITABLY REFLECT THE NEEDS AND CIRCUMSTANCES OF APPLICANTS AND RECIPIENTS THEREUNDER

MAY 9, 1984

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CONTENTS

	Page
Press release of Friday, May 4, 1984, announcing the hearing	1
H.R. 5341, text	3
Summary of H.R. 5341	33

WITNESSES

American Federation of Government Employees, John Harris	81
Bechill, William, Save Our Security [SOS] Coalition	65
Brookdale Center on Aging, Hunter College, New York, NY, Sam Sadin and Jack Landers	116
Evans, Hon. Lane, a Representative in Congress from the State of Illinois	47
Gashel, James, National Federation of the Blind	110
Harris, John, American Federation of Government Employees	81
Howard, Ruth, Canton, IL	49
Kramer, Kris, AFGE Local 3231, on behalf of National Council of SSA Field Operations Locals, AFGE	88
Landers, Jack, Brookdale Center on Aging, Hunter College, New York, NY	116
Morrison, Hon. Bruce A., a Representative in Congress from the State of Connecticut	52
Moynihan, Hon. Daniel Patrick, a U.S. Senator from the State of New York	37
National Caucus and Center on Black Aged, Inc., Samuel J. Simmons	59
National Council of SSA Field Operations Locals, AFGE, Kris Kramer	88
National Federation of the Blind, James Gashel	110
Older Women's League, Alice Quinlan	105
Pepper, Hon. Claude, a Representative in Congress from the State of Florida	140
Quinlan, Alice, Older Women's League	105
Sadin, Sam, Brookdale Center on Aging, Hunter College, New York, NY	116
Save Our Security [SOS] Coalition, William Bechill	65
Simmons, Samuel J., National Caucus and Center on Black Aged, Inc	59

SUBMISSIONS FOR THE RECORD

Center on Social Welfare Policy and Law, statement	126
National Senior Citizens Law Center, Eileen P. Sweeney, statement	132
Nursing Home Ombudsman Program, Hazelle J. Harding, letter	180
Rascona, Barbara, and others, Hartford, CT, letter	177

SSI EQUITABLE IMPROVEMENTS AND REFORM AMENDMENTS OF 1984

WEDNESDAY, MAY 9, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION,
Washington, DC.

The subcommittee met at 1 p.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Harold Ford (chairman of the subcommittee) presiding.

[The press release, the bill H.R. 5341, and a summary follow:]

[Press release No. 13, Friday, May 4, 1984]

HON. HAROLD FORD (D., TENN.), CHAIRMAN OF THE SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A PUBLIC HEARING ON H.R. 5341, "THE SSI EQUITABLE IMPROVEMENTS AND REFORM AMENDMENTS OF 1984" FOR WEDNESDAY, MAY 9, 1984

The Honorable Harold Ford (D., Tenn.) Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a hearing on H.R. 5341, "The SSI Equitable Improvements and Reform Amendments of 1984." The hearing will be held on Wednesday, May 9, 1984, in Room B-318 Rayburn House Office Building and will begin at 1:00 p.m.

H.R. 5341 was introduced on April 3, 1984, and contains 26 amendments to the Supplemental Security Income (SSI) program. A summary of the provisions of H.R. 5341 is printed in the April 3, 1984, Congressional Record beginning on page E. 1379.

In announcing the hearing, Chairman Ford said, "The legislation which Congressman Stark and I, along with other members of the House, have introduced is a modest set of specific amendments intended to correct some of the immediate problems in the SSI program. This includes improving the treatment of the aged, blind and disabled in the administration of the program, and to update some of those provisions of the SSI law which have not been changed since the SSI program went into effect in January 1974."

A large number of organizations representative of the aged, blind and disabled have been involved in the development of H.R. 5341 and are among those who have been invited to testify at the hearing.

DETAILS FOR SUBMISSION OF WRITTEN STATEMENTS

In view of the limited time available to hear witnesses, the Subcommittee is limiting the hearing to invite witnesses only. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing.

Each written statement presented to the Subcommittee for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached);

2. A list of any clients or persons, or any organization for whom the witness appears; and

3. A topical outline or summary of the comments and recommendations in the full statement.

Persons submitting a written statement for the printed record of the hearing should submit six (6) copies of their statements, by the close of business Friday, June 1, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may provide 75 additional copies for this purpose during the course of the hearing.

I

98TH CONGRESS
2D SESSION

H. R. 5341

To amend title XVI of the Social Security Act to make necessary improvements in the supplemental security income program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 1984

Mr. STARK (for himself, Mr. FORD of Tennessee, Mr. MATSUI, Mr. FOWLER, Mrs. KENNELLY, Mr. ROYBAL, Mr. DE LUGO, and Mr. WON PAT) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend title XVI of the Social Security Act to make necessary improvements in the supplemental security income program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "SSI Equitable Improvements and Reform Amendments of 1984".

TITLE I—TREATMENT OF INCOME

Sec. 101. Exclusion of certain real and personal property from income.
Sec. 102. Permanent extension of provisions for disregarding emergency and other in-kind assistance.
Sec. 103. Exclusion of interest and dividends from income.
Sec. 104. Exclusion of certain temporary income in retrospective budgeting.
Sec. 105. Exclusion of reparations received by Holocaust survivors.

TITLE II—TREATMENT OF RESOURCES

Sec. 201. Determination of overpayment amounts when recipient's countable assets exceed limits.
Sec. 202. Modification of penalties where assets are transferred at less than fair market value.
Sec. 203. Exclusion of underpayments from resources.
Sec. 204. Increase in dollar limitations under assets test.
Sec. 205. Computation of vehicle value in assets test.

TITLE III—DETERMINATION OF BENEFIT AMOUNTS

Sec. 301. Changes in one-third reduction formula.
Sec. 302. Continuation of full benefits through second month of institutionalization.
Sec. 303. Increases in benefit standard for institutionalized recipients.

TITLE IV—PROVISIONS RELATING TO ELIGIBILITY

Sec. 401. Eligibility of disabled children living abroad.
Sec. 402. Eligibility for retroactive benefits of deceased recipients.
Sec. 403. Modification of certain filing requirements.
Sec. 404. Eligibility of couples living apart.

TITLE V—OVERPAYMENTS, UNDERPAYMENTS, AND BENEFIT REDUCTIONS

Sec. 501. Limitation of recoupment rate in case of overpayments.
Sec. 502. Extension of interim assistance program.
Sec. 503. Repeal of penalty against recipient where group living facility fails to meet applicable standards.
Sec. 504. Increased payments for presumptively eligible individuals.
Sec. 505. Concurrent overpayments and underpayments.
Sec. 506. Notice to recipients regarding overpayments.

TITLE VI—EXTENSION OF SSI PROGRAM

Sec. 601. Extension of program to Guam and the Virgin Islands.
Sec. 602. Study of extension of program to Puerto Rico.

TITLE VII—OTHER PROVISIONS

Sec. 701. Survey on program participation.
Sec. 702. Extension of outreach efforts.
Sec. 703. Assistance to applicants and recipients.
Sec. 704. Requirement of increased clarity and readability for written materials to be used by SSI applicants or recipients.
Sec. 705. General effective date.

TITLE I—TREATMENT OF INCOME

EXCLUSION OF CERTAIN REAL AND PERSONAL PROPERTY FROM INCOME

SEC. 101. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(14) unearned income received in the form of real or personal property (A) to the extent it meets the criteria for exclusion from the resources of such individual or spouse under section 1613(a), (B) which is of a type not normally converted into cash or otherwise used for the production of income, which is not so converted or used, and which cannot be used by the individual (or such spouse) for food or clothing, or (C) which is received as a gift or heirloom possessing emotional or sentimental value (to the individual or such spouse), and which is not converted into cash or otherwise used for the production of income.".

PERMANENT EXTENSION OF PROVISIONS FOR DISREGARDING EMERGENCY AND OTHER IN-KIND ASSISTANCE

SEC. 102. (a) Section 545 of the Surface Transportation Assistance Act of 1982 is amended—

(1) by striking out "and prior to July 1, 1985" in subsection (c); and

(2) by striking out ", including" and all that follows in subsection (d) and inserting in lieu thereof a period.

(b) Section 404(c) of the Social Security Amendments of 1983 is amended by striking out "and end before October 1, 1984".

EXCLUSION OF INTEREST AND DIVIDENDS FROM INCOME

SEC. 103. (a) Section 1612(a)(2)(F) of the Social Security Act is amended by striking out ", dividends, interest, and royalties"and inserting in lieu thereof "and royalties (and any interest not excluded from income under subsection (b)(12))".

(b) Section 1612(b)(12) of such Act is amended—

(1) by striking out "interest income" and inserting in lieu thereof "dividend and interest income, including interest income"; and

(2) by striking out "within the 9-month period" and all that follows and inserting in lieu thereof ", but not including any interest income derived from an asset which is wholly or partly excluded or omitted from the

resources of the individual (or spouse) under this title to the extent that the amount of such income exceeds the amount that would have been so derived if the asset involved (or the portion thereof so excluded or omitted) had a principal value of $3,000 in the case of an individual or $3,750 in the case of an individual and spouse; and".

EXCLUSION OF CERTAIN TEMPORARY INCOME IN RETROSPECTIVE BUDGETING

SEC. 104. Section 1611(c)(2) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (B)) the following new sentence:

"Any income which is received by an individual in the month in which such individual's application for benefits under this title becomes effective or in any month immediately following a month of such individual's ineligibility for such benefits, and which constitutes income of a kind or in an amount which such individual does not continue to receive in subsequent months, shall be taken into account in determining the amount of the benefit of such individual (and his eligible spouse if any) only for that month and shall not be taken into account in determining the amount of the benefit for any subsequent month.".

EXCLUSION OF REPARATIONS RECEIVED BY HOLOCAUST SURVIVORS

SEC. 105. Section 1612(b) of the Social Security Act (as amended by section 101 of this Act) is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (14) the following new paragraph:

"(15) amounts received from West Germany or any other foreign country as reparations under the Federal Law on the Compensation of Victims of the National Socialist Persecution (Federal Compensation Law), as enacted by the Government of West Germany on June 29, 1956, or received from East Germany as reparations under laws having the same general purposes or objectives.".

TITLE II—TREATMENT OF RESOURCES

DETERMINATION OF OVERPAYMENT AMOUNTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS

SEC. 201. Section 1631(b) of the Social Security Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) To the extent that an overpayment with respect to an individual (or an individual and his or her spouse) for any month is attributable solely to the ownership or possession by such individual (and spouse if any) in such month of resources having a value in excess of the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1611(a), the amount of such overpayment (notwithstanding any other provision of this subsection) shall be the lesser of (A) the total amount of the benefits under this title which were received by such individual (and spouse if any) for such month or for which such individual (and spouse if any) would have been eligible for such month but for such resources, or (B) the amount by which the total value of the resources of such individual in such month exceeded that dollar figure. The application of this paragraph to an overpayment with respect to an individual (or an individual and his or her spouse) for any month shall not affect the application of paragraph (1)(B) or (2)(B) of section 1611(a) to such individual (and spouse if any) for any subsequent month unless this paragraph also applies to an overpayment with respect to such individual (and spouse if any) for such subsequent month.".

MODIFICATION OF PENALTIES WHERE ASSETS ARE TRANSFERRED AT LESS THAN FAIR MARKET VALUE

SEC. 202. (a) Section 1613(c)(1) of the Social Security Act is amended by inserting immediately after "the exclusions under subsection (a)" the following: ", and subject to the provisions of paragraphs (3), (4), and (5) of this subsection".

(b) Section 1613(c) of such Act is further amended by adding at the end thereof the following new paragraphs:

"(4) Any resource (or interest therein) which was given away or sold at less than its fair market value, and which as a consequence must be included in the resources of an individual (and his eligible spouse if any) under paragraph (1), shall be included in such resources only for a period (to be specified by the Secretary) which bears a reasonable relationship to the uncompensated value of such resource (or interest) as determined under paragraph (3) and which to the maximum extent feasible is the same as the period during which the individual or spouse is or would be ineligible by reason of section 1917(c) for medical assistance under the applicable State plan approved under title XIX.

"(5) The Secretary in accordance with regulations may in any case waive the requirement of paragraph (1), or reduce the period for which the resource involved is to be included in

the individual's resources as otherwise specified under paragraph (4), upon a finding that—

"(A) the individual (or eligible spouse if any) is in a hospital, nursing home, or other medical institution and cannot reasonably be expected to be discharged from such institution and return home,

"(B) title to the resource involved was transferred to the individual's spouse or to the individual's child who is under age 21 or is blind or disabled as defined in section 1614(a),

"(C) the individual (or spouse) intended to dispose of the resource either at fair market value or for other valuable consideration, or

"(D) the inclusion of the resource in the individual's or spouse's resources would work an undue hardship;

and in any event, where the State (under whose medical assistance plan the individual (or spouse) is covered) elects to waive the requirements of section 1917(c) or to reduce the period during which such individual (or spouse) is or would be ineligible for medical assistance by reason of such section 1917(c), the Secretary (with respect to such individual or spouse) shall waive the requirement of paragraph (1) or similarly reduce the period otherwise specified under paragraph (4).".

EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

SEC. 203. Section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) any amount received from the United States (in the form of a retroactive check) which is attributable to underpayments of benefits due for one or more prior months, under this title or title II, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to a period of 12 months from the date on which such amount is received, and the retroactive check shall be accompanied by a written notice of this limitation.".

INCREASE IN DOLLAR LIMITATIONS UNDER ASSETS TEST

SEC. 204. (a) Section 1611(a)(1)(B) of the Social Security Act is amended by striking out "$2,250" and "$1,500" and inserting in lieu thereof "$3,000" and "$2,000", respectively.

(b) Section 1611(a)(2)(B) of such Act is amended by striking out "$2,250" and inserting in lieu thereof "$3,000".

COMPUTATION OF VEHICLE VALUE IN ASSETS TEST

SEC. 205. Section 1613(a)(2) of the Social Security Act is amended—

(1) by striking out "(A) household goods, personal effects, and an automobile, to the extent" and inserting in lieu thereof the following:

"(A) an automobile;

"(B) household goods and personal effects, to the extent"; and

(2) by striking out "(B) the value" and inserting in lieu thereof "(C) the value".

TITLE III—DETERMINATION OF BENEFIT AMOUNTS

CHANGES IN ONE-THIRD REDUCTION FORMULA

SEC. 301. Section 1612(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (2)(F)) the following new sentence:

"For purposes of paragraph (2)(A)(i), an individual (and his eligible spouse, if any) shall not be considered to be 'living in another person's household and receiving support and maintenance in kind from such person' if such individual (and such spouse, if any) live in a household with one or more other persons and such individual's (or such individual's and spouse's) pro rata share of the expenses of maintaining such household does not exceed the benefit (including any supplementary payments) payable to an individual (or an individual and eligible spouse, as may be appropriate) with no other income who is living in another person's household and receiving support and maintenance from such person.".

CONTINUATION OF FULL BENEFITS THROUGH SECOND MONTH OF INSTITUTIONALIZATION

SEC. 302. (a) Section 1611(e)(1)(A) of the Social Security Act is amended by striking out "subparagraphs (B), (C), and (D)" and inserting in lieu thereof "subparagraphs (B), (C), (D), and (E)".

(b) Section 1611(e)(1) of such Act is further amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and by striking out so much of subparagraph (B) as precedes clause (i) and inserting in lieu thereof the following:

"(B) In any case where an eligible individual or eligible spouse is in a hospital, extended care facility, nursing home,

or intermediate care facility, such individual's benefit for the period ending with the second consecutive month throughout which he or she is in such hospital, home, or facility shall be determined as though he or she were continuing to reside outside the institution under the same conditions as before he or she entered the institution.

"(C) In any case where an eligible individual or eligible spouse is throughout any month in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, and such month is the third consecutive month throughout which, or a month in a continuous period beginning with such third consecutive month throughout which, such individual is in a hospital, extended care facility, nursing home, or intermediate care facility (whether or not receiving payments with respect to such individual for each month in such period), the benefit under this title for such individual for such month shall be payable—".

INCREASES IN BENEFIT STANDARD FOR INSTITUTIONALIZED RECIPIENTS

SEC. 303. (a) Section 1611(e)(1)(C) of the Social Security Act (as amended by section 302 of this Act) is further amended—

(1) by striking out "$300 per year" in clauses (i) and (ii)(II) and inserting in lieu thereof "$420 per year (or, if greater, the amount determined under section 1617, with the amount of the resulting payment under this paragraph for any month (if not a multiple of $1) being rounded to the next higher multiple of $1)"; and

(2) by striking out "$600 per year" in clause (iii) and inserting in lieu thereof "$840 per year (or, if greater, the amount determined under section 1617, with the amount of the resulting payment under this paragraph for any month (if not a multiple of $1) being rounded to the next higher multiple of $1)".

Section 1617(a)(1) of such Act is amended by striking out "and (b)(2)" and inserting in lieu thereof "(b)(2), and (e)(1)".

TITLE IV—PROVISIONS RELATING TO ELIGIBILITY

ELIGIBILITY OF DISABLED CHILDREN LIVING ABROAD

SEC. 401. Section 1611(f) of the Social Security Act is amended—

(1) by striking out "(f) Notwithstanding any other provision of this title," and inserting in lieu thereof "(f)(1) Notwithstanding any other provision of this title (but subject to paragraph (2) of this subsection),"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Paragraph (1) shall not apply with respect to any minor child who is disabled (as determined under section 1614(a), in the manner provided in section 221(g)) and who is outside the United States with his or her parent or parents, so long as such parent (or either of such parents) retains his or her legal residence in a State.".

ELIGIBILITY FOR RETROACTIVE BENEFITS OF DECEASED RECIPIENTS

SEC. 402. Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by striking out "by recovery from" in the first sentence and all that follows down through "The Secretary" and inserting in lieu thereof the following: "by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to the eligible spouse, if any, or

"(11) if there is no person who meets the requirements of clause (i) or the person who meets such requirements dies before the payment is completed, to any surviving husband or wife (as determined under

section 1614(d)) with whom the individual was living at the time of his death or immediately prior to institutionalization by reason of his last illness, or

"(iii) if there is no person who meets the requirements of clause (i) or (ii) or each person who meets such requirements dies before the payment is completed, and such individual was a disabled child whose income and resources (at the time of his death) were deemed to include any income and resources of a parent or parents under section 1614(f)(2), to such parent or parents, or

"(iv) if there is no person who meets the requirements of clause (i), (ii), or (iii) or each person who meets such requirements dies before the payment is completed, and such individual (at the time of his death) was living in another person's household and was subject to section 1612(a)(2)(A)(i), to such other person, or

"(v) if there is no person who meets the requirements of clause (i), (ii), (iii), or (iv) or each person who meets such requirements dies before the payment is completed, to members of such individual's family or other persons to the extent and in the proportions that (as determined under regulations of the Secretary) they

furnished such individual with support or maintenance during the period for which the payment is being made.

"(B) The Secretary".

MODIFICATION OF CERTAIN FILING REQUIREMENTS

SEC. 403. Section 1611(e)(2) of the Social Security Act is amended—

(1) by inserting "(A)" before "No person"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (A) shall not require any person under the age of 65 who is applying for or receiving benefits under this title, in order to be an eligible individual or eligible spouse for purposes of this title, to apply for and (if eligible) obtain any benefits which may be payable to such person under title II of this Act or under the Railroad Retirement Act of 1974, if the receipt of the latter benefits would render such person ineligible for benefits under this title and consequently for assistance under title XIX. The Secretary shall inform each person to whom the preceding sentence applies of his or her potential eligibility for benefits under title II of this Act or under the Railroad Retirement Act of 1974, of the potential risk of loss of his or her eligibility for assistance under title XIX, and of his or her right (in view of that risk) to elect not to apply for such benefits.".

ELIGIBILITY OF COUPLES LIVING APART

SEC. 404. (a) Section 1614(b) of the Social Security Act is amended by striking out "for more than six months." in the first sentence and inserting in lieu thereof "for more than one month, and, for purposes of determining the amount of benefits payable for a month during which they are living apart, the living arrangement of such individual and spouse in the month preceding such month shall be considered to be the living arrangement of both such individual and spouse. A husband and wife who are living in the same hospital, extended care facility, nursing home, or intermediate care facility shall be considered to be living apart. Notwithstanding the two preceding sentences, a husband and wife shall be considered to be living together (and to be an eligible individual and eligible spouse) during any period of not more than two consecutive months throughout which one or both of them is in a hospital, extended care facility, nursing home, or intermediate care facility if throughout such period they would be an eligible individual and eligible spouse (as defined in the preceding provisions of this subsection) if they are living together and if, in the month immediately preceding such period, they were living together as an eligible individual and eligible spouse (as so defined).".

(b) The last sentence of section 1614(b) of such Act is amended by striking out "the preceding sentence" and insert-

ing in lieu thereof "the preceding provisions of this subsection".

TITLE V—OVERPAYMENTS, UNDERPAYMENTS, AND BENEFIT REDUCTIONS

LIMITATION OF RECOUPMENT RATE IN CASE OF OVERPAYMENTS

SEC. 501. Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "The Secretary" in the second sentence; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ", and (B) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits) only through adjustments in future payments which do not reduce the amount of any such payment by more than 10 percent or $10 (whichever is larger), where no fraud on the part of the individual or spouse was involved in connection with the overpayment, so long as such individual or spouse is receiving payments under this title. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (B) of the preceding sentence shall not, in

and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (A) of such sentence.".

EXTENSION OF INTERIM ASSISTANCE PROGRAM

SEC. 502. (a) Section 1631(g)(2) of the Social Security Act is amended by striking out "at the time the Secretary makes the first payment of benefits" and inserting in lieu thereof "at the time the Secretary makes the first payment of benefits (with respect to the period described in clause (A) of paragraph (3)) or at any time after the termination or suspension of the individual's benefits (with respect to a period described in clause (B) of such paragraph).".

(b) Section 1631(g)(3) of such Act is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end thereof the following: ", or (B) during any period following the termination of the individual's benefits, if and to the extent that (i) the individual is subsequently found on reconsideration or appeal to have been eligible for such benefits and (ii) a retroactive payment of benefits for months in that period is due the individual".

REPEAL OF PENALTY AGAINST RECIPIENT WHERE GROUP LIVING FACILITY FAILS TO MEET APPLICABLE STANDARDS

SEC. 503. Section 1616(e) of the Social Security Act is amended by striking out paragraph (4).

INCREASED PAYMENTS FOR PRESUMPTIVELY ELIGIBLE INDIVIDUALS

SEC. 504. Section 1631(a)(4)(A) of the Social Security Act is amended by striking out "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "cash advances of such monthly benefits for which he is presumptively eligible, including any federally-administered State supplementary payments, for each of the first three months of such presumptive eligibility".

CONCURRENT OVERPAYMENTS AND UNDERPAYMENTS

SEC. 505. Section 1631(b) of the Social Security Act (as amended by section 201 of this Act) is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) If at any time both an overpayment and an underpayment exist in the case of an individual without a final adjustment or recovery having yet been made with respect to either of them, no such adjustment shall be made with re-

spect to the underpayment until the individual has had a reasonable opportunity to seek a waiver of the overpayment under the second sentence of paragraph (1); and the existence of the underpayment shall not preclude the granting of such a waiver of the overpayment or otherwise affect the disposition thereof.".

NOTICE TO RECIPIENTS REGARDING OVERPAYMENTS

SEC. 506. (a) Section 1631(b) of the Social Security Act (as amended by sections 201 and 505 of this Act) is further amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) No action shall be taken by the Secretary to provide for the adjustment or recovery of any overpayment made with respect to an individual (whether such action is the initial action of the Secretary with respect to the overpayment or is subsequently taken) until the Secretary has sent to such individual a notice, in clear and understandable language, setting forth—

"(A) the exact amount of the overpayment, and the manner in which that amount was calculated (using actual dollar figures);

"(B) the period or periods with respect to which the overpayment occurred;

"(C) the reason why the overpayment occurred;

"(D) a statement of the manner in which, and the rate at which, the overpayment is proposed to be adjusted or recovered;

"(E) a statement of the individual's right to seek a waiver of the overpayment (or relief from the proposed manner or rate of adjustment or recovery) under the second sentence of paragraph (1) and to seek reconsideration of the Secretary's determination that an overpayment exists (or that the overpayment is to be adjusted or recovered in the proposed manner or at the proposed rate); and

"(F) an assurance that if the individual seeks such a waiver or reconsideration, no adjustment in or recovery from such individual's benefits will be undertaken or carried out until a decision is made on the waiver or reconsideration sought.".

(b) Section 1631(b)(3) of such Act (as added by section 505 of this Act) is amended by striking out "until the individual has had" and inserting in lieu thereof "until the individual has received the Secretary's notice with respect to the overpayment under paragraph (4) and has had".

TITLE VI—EXTENSION OF SSI PROGRAM

EXTENSION OF PROGRAM TO GUAM AND THE VIRGIN ISLANDS

SEC. 601. (a) Section 1614(e) of the Social Security Act is amended by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, the Virgin Islands, and Guam".

(b) Section 1101(1) of such Act is amended—

(1) by inserting "XVI," after "XI," in the first sentence; and

(2) by striking out ", the Virgin Islands, and Guam" each place it appears in the fifth sentence.

(c) Section 303(b) of the Social Security Amendments of 1972 is amended by striking out ", Guam, and the Virgin Islands.

STUDY OF EXTENSION OF PROGRAM TO PUERTO RICO

SEC. 602. (a) The Secretary of Health and Human Services shall conduct a full and complete study of the feasibility of extending the program of supplemental security income benefits to Puerto Rico, and shall submit to the Congress, on or before October 1, 1985, a report setting forth the results of such study together with such recommendations as the Secretary may deem appropriate in the light of such results.

(b) The study under subsection (a) shall specifically include consideration of—

(1) the potential cost of extending the existing SSI program to Puerto Rico;

(2) the size of the population that would be eligible for SSI benefits if the existing program were so extended;

(3) the extent to which such potential cost and population size might be reduced if the SSI benefit standard to be applied to individuals in Puerto Rico were different from the SSI benefit standard which applies to individuals in other States, and the various kinds of different standards that might be so applied;

(4) the desirability or feasibility of gradually phasing in the SSI program in Puerto Rico;

(5) the extent to which the implementation of the SSI program in Puerto Rico would produce offsetting savings in the food stamp program or in other Federal programs; and

(6) any other factors which might bear upon the feasibility of extending the SSI program to Puerto Rico.

TITLE VII—OTHER AMENDMENTS

SURVEY ON PROGRAM PARTICIPATION

SEC. 701. (a) The Secretary of Health and Human Services shall conduct a statistically reliable survey of current and potential recipients of SSI benefits, with the objective of determining the extent to which the program is being used by individuals who are or may be eligible for benefits thereunder and the extent to which current data (on the number of such individuals and their reasons for filing or not filing applications for such benefits) are accurate, and shall submit to the Congress, on or before April 1, 1986, a full and complete report of the results of such survey together with such recommendations as may be deemed appropriate in the light of such results.

(b) In the conduct of the survey the Secretary shall issue such questionnaires, hold such interviews, and take such other appropriate actions, in a manner calculated to reach the largest possible number of potentially eligible individuals, as will best assure the achievement of its objective.

(c) The survey shall specifically include an effort to determine the number of eligible individuals (adults and children) who do not participate in the program because of their lack of knowledge, their excess resources, the marginal nature of the benefits to which they would be entitled, or other factors including their perceptions about the program,

and shall be designed to produce results which will permit better cost estimates for future legislative proposals and a more accurate evaluation of the impact of the SSI program on the low-income population.

EXTENSION OF OUTREACH EFFORTS

SEC. 702. (a)(1) The Secretary of Health and Human Services shall establish and conduct an ongoing program designed to provide information about SSI benefits (and State supplementary benefits) to individuals who are not currently receiving such benefits.

(2) In conducting the program under this section, the Secretary (without being limited to the following) shall (A) provide notice of the availability of SSI benefits to all elderly and disabled individuals who are recipients of benefits under title II of the Social Security Act or under other benefit programs (including State programs), and who may be eligible for SSI benefits, (i) at the time when any such individual attains age 65 and at least every two years thereafter, (ii) at the time when any such individual (before attaining age 65) applies for or is awarded disability insurance benefits, and (iii) at the time when any such individual is notified of his or her eligibility for supplementary medical insurance benefits, and (B) encourage all such recipients to contact their local Social Security district offices for further information.

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(b) To the maximum extent possible in the conduct of the program under this section, the Secretary shall regularly consult and cooperate with other Federal, State, and private agencies which have knowledge of potential SSI recipients, and shall enter into appropriate arrangements under which such agencies will send notices of the type described in subsection (a) to individuals receiving benefits or services under programs administered by them. The Secretary shall address separately and specifically the best mechanisms available for outreach to potentially eligible disabled children.

(c) The Secretary shall from time to time (not less often than annually) submit to the Congress a full and complete report on the program under this section, together with such recommendations as may be deemed appropriate.

ASSISTANCE TO APPLICANTS AND RECIPIENTS

SEC. 703. Section 1631(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall assist applicants and recipients in executing and filing applications for benefits under this title and in furnishing any other data, material, and information which may be required in the administration of this title, with particular attention to cases where such applicants and recipients because of their physical or mental condition are incapable without u ue difficulty of executing or filing such

applications or furnishing such data, material, or information, and shall take such steps as may be necessary or appropriate to assure that all applicants and recipients are made fully aware of the availability of such assistance.".

REQUIREMENT OF INCREASED CLARITY AND READABILITY FOR WRITTEN MATERIALS TO BE USED BY SSI APPLICANTS OR RECIPIENTS

SEC. 704. Section 1631(e) of the Social Security Act (as amended by section 703 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(4)(A) The Secretary shall take steps to assure (i) that all forms, notices, pamphlets, and other documents which are issued or distributed by the Secretary for use by applicants for or recipients of SSI benefits are written and arranged in a manner that is clear, readable, readily understandable, and suited to the needs and purposes of the particular documents involved, and (ii) that each such form, notice, pamphlet, or other document will fully and fairly provide the applicant or recipient with the information necessary to enable him or her to assess his or her rights and to know what if any action is required.

"(B) In carrying out subparagraph (A), the Secretary shall—

"(i) review all of the forms, notices, pamphlets, and other documents in use on the date of the enact-

ment of this paragraph, and complete whatever revisions or modifications may be necessary in order to achieve the objectives of such subparagraph, no later than 12 months after such date; and

"(ii) review any form, notice, pamphlet, or other document (intended for use by applicants for or recipients of SSI benefits) which may be proposed for issuance or distribution on or after the date of the enactment of this paragraph, prior to its actual issuance or distribution, in order to assure that it is written and arranged in the manner required by subparagraph (A).

"(C) Except to the extent that it is affirmatively determined by the Secretary not to be feasible, the Secretary shall contract with recognized experts to conduct the reviews required by this paragraph and to make any revisions in the documents involved which may be required to achieve the objectives of subparagraph (A).".

GENERAL EFFECTIVE DATE

SEC. 705. Except as otherwise specifically provided, this Act and the amendments made by this Act shall become effective October 1, 1984.

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SUMMARY OF SSI EQUITABLE IMPROVEMENTS AND REFORM AMENDMENTS OF 1984, H.R. 5341

TITLE I—TREATMENT OF INCOME

Section 101. Excludes certain gifts from income, e.g., property received which in the following month would be excluded as a resource or a gift which is not converted into cash.

Section 102. Makes permanent provisions which exclude from income certain emergency and other in-kind assistance provided on the basis of need by non-profit organizations and makes permanent the exclusion of home energy assistance provided by private organizations on the basis of need.

Section 103. Interest and dividend income on countable resources that are within the resource limits would not be counted as income.

Section 104. Requires that temporary one-time income received in the initial month of eligibility for SSI is not counted more than once under the retrospective budgeting process.

Section 105. Excludes from income reparations received from the West German government by holocaust survivors.

TITLE II—TREATMENT OF RESOURCES

Section 201. Establishes certain limits on the amount of overpayments incurred when it is found that an SSI recipients resources had in a previous month exceeded the allowable limit by an amount less than the individual's SSI payment.

Section 202. Provides that in the SSI program, as in the Medicaid program, that when resources are transferred at less than fair market value to qualify for benefits, that the length of delay in eligibility for benefits would be in proportion to the uncompensated value of such resource instead of current SSI law's penalty of no less than a two year delay in eligibility.

Section 203. Excludes from being counted as a resource for 12 months for SSI eligibility purposes the value of retroactive SSI or social security checks.

Section 204. Increases the SSI countable resources limit for $1500 to $2000 for an individual and from $2250 to $3000 for a couple.

Section 205. Provides for exempting from the SSI resources limit the applicant's or recipient's automobile instead of current law which provides for the Secretary to periodically adjust the allowable limit on the amount of the value of a car which is exempt from the resources limit. (Current law also exempts the applicant's or recipient's home in contrast to the original SSI law under which the Secretary had authority to set a value limit on the home.

TITLE III—DETERMINATION OF BENEFIT AMOUNTS

Section 301. Modifies the assumptions to be used in determining whether or not an SSI applicant is receiving in-kind assistance when living with others in such a way as to protect SSI applicants from an automatic ⅓ reduction in their initial SSI benefit if at the time of application they are living with a relatively low income household.

Section 302. Instead of residents of Medicaid facilities having their SSI benefit reduced to $25 a month (as adjusted by Section 303) effective the first full month in such a facility, they would not have their SSI benefit standard reduced until the second full month in such a facility.

Section 303. The current $25 a month SSI benefit standard for residents of Medicaid facilities would be increased to $35 and would be annually increased by the same cost of living percentage as other SSI benefit standards.

TITLE IV—PROVISIONS RELATING TO ELIGIBILITY

Section 401. Protects disabled children against ineligibility for SSI disabled children benefits solely because their parents have been transferred out of the country and have lived out of the country more than 30 days.

Section 402. Expand eligibility for retroactive benefits of deceased recipients to the spouse, the parent of a disabled child, those with whom they were living and the ⅓ reduction for in-kind assistance was applied or if none of the above, other persons who can demonstrate that they furnished the recipients with support during the period covered by the retroactive check. Present law provides that only an eligible spouse may receive the retroactive payment that was due a deceased SSI recipient.

Section 403. Provides that for SSI applicants or recipients under age 65 a person will not be required to file for Social Security or Railroad Retirement benefits, if

receipt of such benefits would disadvantage the individual, e.g. loss of eligibility for SSI and subsequently health services under Medicaid.

Section 404. Provides for the reduction from six months to one month the time that an SSI individual and their eligible spouse must be living apart before they will be treated as individuals for determining eligibility for and amount of SSI benefits.

TITLE V—OVERPAYMENTS, UNDERPAYMENTS, AND BENEFIT REDUCTIONS

Section 501. This provision limits the rate of recoupment of SSI overpayments. SSA would not be allowed to recoup from SSI recipients who have been overpaid, an amount which would result in decreasing their SSI payment by more than the greater of $10 or 10 percent per month, in those cases not involving fraud.

Section 502. Expansion of the interim assistance program to include payment of the appropriate amount of retroactive SSI funds to the State, when the State has provided financial assistance to SSI recipients who have appealed a termination of benefits, subsequently won the appeal, and have qualified for retroactive SSI benefits.

Section 503. Repeal of provision which reduces the SSI recipient's benefits if the group living facility in which they reside does not meet State standards.

Section 504. Emergency advance payments which can be paid directly by a district Social Security office to those in need of immediate subsistence income would be increased from up to $100 a month to 3 months of SSI benefits.

Section 505. Treatment of concurrent overpayments and underpayments. Provides that when an individuals benefits they had received under SSI involves both underpayments and overpayments, that no adjustment in SSI benefits is to be made by SSA to recover the underpayment until the individual has had opportunity to exhaust their appeal on the overpayment.

Section 506. Improving the notice recipients receive regarding overpayments. When an individual has been overpaid the Secretary is to send the person a notice which contains, in simple language, the following information: the precise amount of the overpayment; the months in which the overpayment occurred; the reason the overpayment occurred; a complete statement of the individual's right to seek reconsideration of the finding that overpayment occurred; the right to seek waiver of repayment; and notice that if waiver or reconsideration is sought, payment of full benefits will continue until a decision is made.

TITLE VI—EXTENSION OF SSI PROGRAM

Section 601. Provides for the extension of the SSI program to Guam and the Virgin Islands effective October 1, 1985.

Section 602. Requires HHS to conduct a study of the feasibility and cost of the extension of SSI to residents of Puerto Rico.

TITLE VII—MISCELLANEOUS PROVISIONS

Section 701. Provides for HHS to conduct a statistically reliable survey of current and potential recipients of SSI benefits with the objective of determining the number of eligible individuals (adults and children) who do not participate in the program because of lack of knowledge, excess resources, the marginal nature of the amount benefits they would receive or other factors including perceptions about the program. A report would be submitted to the Congress by April 1, 1986.

Section 702. Requires HHS to establish and conduct an outgoing SSI outreach effort.

Section 703. Requires that SSA give special attention to assisting SSI applicants and recipients who are physically or mentally incapable or severely limited in their ability to apply for benefits or to provide information on a regular basis to SSA while they are recipients.

Section 704. Requires that HHS take certain action to increase the clarity and readability of written materials to be used by SSI applicants or recipients.

Chairman FORD. The hearing of the Subcommittee on Public Assistance and Unemployment Compensation will come to order.

The hearing today is for the purpose of receiving testimony regarding the bill H.R. 5341, the SSI Equitable Improvements and Reform Amendments of 1984.

Some 3.9 million aged, blind, and disabled individuals rely on the SSI Program as a primary form of income to provide them the necessities of life—food, housing, shelter, and clothing.

When the SSI Program replaced the State welfare programs of old age assistance and aid to the disabled and blind in 1974, it was hoped that certain goals would be accomplished:

All of the aged, blind, and disabled in this country would be assured of a minimum income regardless of where they lived; cash assistance benefits for the elderly and disabled, which in many cases supplement their Social Security benefits, would be administered without stigma by the Social Security Administration; and the aged, blind and disabled would be treated with respect and decency.

I am sorry to say that instead of respect and decency the operating procedures have too often involved "meanness" and "intimidation."

It is my hope by enacting the provisions of this legislation before us today, that we can return the SSI Program to its original intent of providing a sense of security for the aged, blind and disabled in this country.

This is not a very expensive bill when we are talking about the lives of nearly 4 million people.

This is not a very expensive bill for another reason—it doesn't cost much not to harass people—and that is a major goal of the bill before this committee today.

This is not a very expensive bill when we realize that some of the eligibility levels in SSI have not been updated for 10 years.

For example, the personal needs allowance that provides $25 a month for the 200,000 SSI recipients who are residents of nursing homes has not been increased since the program begin in 1974. In constant dollars, the personal needs allowance is worth only $11.82 today. Certainly we can provide a resident of a nursing home a few extra dollars a month to purchase a candy bar, a magazine, or to buy a gift for a grandchild.

This last weekend we heard the President of the United States describe this administration's success in collecting debts owed the Federal Government. I wonder if the President is proud of the notice now being sent by the Social Security Administration to an aged person who, for example, is overpaid SSI because of a computer error.

They received a notice in the mail which reads "If within 30 days you do not refund the full amount of the overpayment or if we do not hear from you, we will withhold your monthly payment."

The first part of the notice says pay up in full or we will withhold your SSI payment. Almost as an afterthought, it is added that there are provisions for waiving repayment when the Government itself makes the mistake and we know that it is Government's fault. In parenthesis, the notice implies that a repayment schedule might be worked out to avoid an entire month's check from being withheld. No details on such a repayment schedule are provided, of course.

Of course debts owed to the Government should be paid. But it is not the poor aged, blind, or disabled population of this country that

is responsible for the billions of dollars owed to the Government and they should stop being treated as if they were.

Some of the amendments to the SSI law in H.R. 5341 have been incorporated in the reconciliation bill which has passed the House and will be considered in conference within the next few days. Part of the purpose of this hearing today is to place on the record the broad support for those provisions.

I also want to take this opportunity to thank the many different organizations and individuals who have been involved in the development of this legislation. The destitute aged, blind, or disabled individuals throughout this country have a voice because of the dedicated work of the organizations and coalitions of organizations who are represented by those testifying today. And they will be testifying later on this afternoon.

It is the Chair's intent to hear all the witnesses today and we know that there are several, and we have one of our distinguished Senators who will be testifying today before the committee.

Before I recognize the Senator, I would like to say I would yield to the ranking minority member, and he will be here shortly but I would like for the record to insert his statement at this point in the record to be a part of the record, from Mr. Campbell.

[The statement follows:]

STATEMENT OF HON. CARROLL A. CAMPBELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Chairman, I regret that I cannot be present today because of a conflicting meeting with a long-scheduled appointment. Since this hearing was not scheduled until after Congress recessed last week I did not find out about it until my return on Tuesday.

I am delighted to note that Senator Patrick Moynihan and other chosen groups are testifying today because of the historical perspective they can provide on the Supplemental Security Income Program, I only wish that others could have had the opportunity to testify, but because they did not have more notice, are not among the invited.

As you know, there are some sections in the bill which I support that are pending before the Reconciliation Conference—Sections 102, 201, 203, 204, and 501. After reviewing the testimony, I may find that I can support other sections as well. However, there are also sections of this bill which cause us concern.

This hearing is especially timely because this year marks a decade since this program was implemented. The SSI Program has proven to be an administratively efficient method of providing assistance to the aged, blind and disabled, who would otherwise be without income or resources.

Chairman FORD. At this time, the Chair would like to recognize the Honorable Daniel Moynihan, the Senator from the State of New York, and the Honorable Claude Pepper, the former Senator and our colleague here in the House of Representatives, Mr. Claude Pepper; would you two come and take the witness stand.

We are delighted to have you before the subcommittee, Senator. I would apologize that some of the other members have not arrived yet. They have all expressed the intent of being here. Hopefully they will be here before your testimony is over. We are delighted to have you come over to the House side. We want to commend you for the very great job you are doing on the Senate side as it relates to the poor as well as the aged and blind in this country.

Once again, we welcome you, Senator, and you may proceed at this time.

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Thank you, Mr. Chairman, and what a special privilege to be both before your committee and alongside this great man, Senator Pepper, who has done so much for this Nation for so long.

Mr. Chairman, I have a prepared statement which I would ask if it might be included in the record.

Chairman FORD. Senator, the prepared statement will be made a part of the record.

Senator MOYNIHAN. Thank you, sir.

My remarks this afternoon are intended primarily to express solidarity with this committee and its distinguished chairman. I have introduced in the Senate identical legislation, S. 2569, and while it would be superfluous to tell you what is in the bill you and Representative Stark introduced, I would like to make a few points that I think would help in the record.

The first is to say that we are dealing here with one of the few large achievements in social insurance of the last two decades, and certainly the last of its order. When President Nixon signed H.R. 1 in October 1972, he said this is indeed landmark legislation—as it was. It was the first time we had taken elements of the original Social Security Act which provided that varied enormously from one jurisdiction to another, and established a uniform national level of care and support for all Americans, no matter where they live.

We provided in effect a guaranteed income for the aged, the disabled, and the blind.

Mr. Chairman, I would like to make the point—contrary to what seems to be a general impression—this program has not grown significantly in terms of the numbers of persons in it. In 1974 there were 3.4 million; in 1984, a decade later, there are 3.9 million. The number of aged persons in the program has gone down, the number of disabled persons has gone up.

A great many persons have asked about the disabled component. I wish to offer you my view, as someone who worked on this legislation in the executive branch. The growth in the disability component of SSI basically reflects the discovery by disabled persons of their eligibility for benefits that they did not know they were eligible for. That is a familiar pattern in any social program. It takes time for the persons, and the community to know about it. I think we are seeing a very normal growth, not at all threatening—reflecting the need that exists out there.

Finally, Mr. Chairman, if I could just go through just a few of the provisions included in the legislation, it seems to me that they make just elemental good sense.

The first is the fact that we have seen the Consumer Price Index more than double since the program was enacted, but we have not seen any change in certain basic dollar provisions in the legislation. The amount of personal assets an individual or couple may have was set and still remains, at $1,500 for an individual, and $2,250 for a couple—not much, sir. Anyone who is down to $1,500 after a long lifetime is down on his or her luck indeed.

This measure would raise these figures respectively to $2,000 and $3,000—very modest increases that do not match the real change in price levels in the cost of living.

Second, Mr. Chairman, there is an unintended, but particularly iniquitous arrangement this legislation seeks to correct. Right now if aged persons or disabled persons receive small gifts from their family the value of these gifts is deducted from their benefits. If a daughter sends a bus ticket for her mother to come to Thanksgiving dinner, that ticket is regarded somehow as income that has to be deducted from her monthly benefit.

Now, that just discourages the kinds of things we would most want to happen, our legislators would exclude these de minimis gifts.

Next, Mr. Chairman, as you very properly described, this legislation addresses those situations where the Government has made an overpayment and suddenly demands it back immediately—from persons who are living on $314 per month. A person living on so little income cannot have much left over at the end of the month. If that person, in good faith, was spending the allowance he or she was given and it turned out there was $120 or $300 overpayment, well, the next month he or she might have simply no income at all.

Our legislation simply says take it out at $10 a month or 10 percent of the monthy benefit, whichever is lower.

Finally, we have the yet more absurd situation when the Government underpays the individual, then catches up with its own mistake. SSA grants that individual only 4 months to spend all that money or else it will be included among his assets, whereupon his payments will be lowered because his assets are above the ceiling—all the result of a mistake on the Government's part.

That is to say, if you get a retroactive check, spend it fast, don't save it. That is not of interest to older persons, and it should not be a requirement of our regulations. Those are examples of the good sense changes which you proposed, sir, and which we hope are enacted on our side.

I thank you very much for your courtesy in inviting me to speak and particularly in allowing me to speak before the man who speaks ahead of us all, Senator Pepper.

[The prepared statement follows:]

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK

I am honored to appear before the distinguished Subcommittee on Public Assistance and Unemployment Compensation today to discuss S. 2569, the Supplemental Security Income Equitable Improvement and Reform Amendments of 1984. This legislation marks the first comprehensive reform of the Supplemental Security Income (SSI) program since its inception 10 years ago.

SSI is but one of three components of our Nation's Income Security System. These three components—private savings and employer plans, Social Insurance, and means-tested public assistance—comprise a system that replaces, at least in part, an individual's wages lost due to retirement, death or disability.

In recent years, Congress has taken action to bolster the first two parts of this system, private savings and employer plans, and Social Insurance. In 1981, for example, Congress allowed individuals to deduct up to $2,000, from gross income, if they contributed to an Individual Retirement Account (IRA). The passage of P.L. 98-21, the Social Security Amendments of 1983, ensured the financial stability of our Nation's shared enterprise of Social Insurance.

But a nation must also provide for those citizens who are unable to accumulate sufficient savings, or whose Social Insurance is insufficent to provide for necessities. That is the function of the third component, means tested public assistance. Just as we provide assistance under the Aid to Families with Dependent Children (AFDC) program to needy children, so, too, do we provide for the most basic needs of needy aged, blind and disabled individuals under the SSI program.

As our experience last year with Social Security demonstrates, it is necessary, indeed essential, to periodically evaluate and improve our Income Security System. The ten-year anniversary of the SSI program is an appropriate time to focus our attention on this component of our Income Security program. The SSI program is in dire need of this attention—it has undergone very little change since it began ten years ago.

S. 2569, legislation introduced by Senator John Heinz and myself in the U.S. Senate, and H.R. 5341, introduced by Congressman Harold Ford and Pete Stark, seek to draw attention to the SSI program. This legislation is of modest proportions, designed to promote greater administrative efficiency and resolve various inequities which have emerged in the program over the last decade. Its purpose is not to increase benefits for the nearly four million blind, elderly, and disabled Americans receiving SSI, nor to expand the services of this program to others. Some of the provisions of this legislation will even save money. Taken together, the SSI Equitable Improvement and Reform Amendments represent a thorough and sensible package designed to enhance the effectiveness of SSI, and, consequently, maintain the third component of our Income Security System.

When President Nixon signed H.R. 1, creating SSI, on October 30, 1972, he declared that SSI "will end many old inequities and will provide a new uniform system of well-earned benefits for older Americans, the blind, and the disabled. It reaffirms and reinforces American's traditional efforts to assist those of our citizens who, through no fault of their own, are unable to help themselves."

I was a member of President Nixon's Cabinet during the formulation and consideration of SSI. It was landmark legislation: the first assistance program based on uniform national eligibility standards and payment levels. Ten years of program operation, however, have highlighted some aspects that require fine-tuning, so SSI can better serve needy blind, aged, and disabled Americans. Simply stated, this bill doesn't dramatically increase beneficiaries or benefits, but it does something equally important—it improves the treatment of current beneficiaries by reducing the harassment and indignities to which they are now subjected.

Current SSI procedures, for example, discourage normal giftgiving between families and friends. If an SSI recipient is taken out for lunch, by a son, she must report that cost of that meal to the Social Security Administration, and its value is deducted from her monthly SSI check. Similarly, if a grandaughter pays for her grandfather's train ticket on Thanksgiving, its cost is considered part of the grandfather's "income" under current SSI procedures, and must be deducted from his SSI check. In neither case, or thousands like it, could the SSI recipient use the time in question to meet his or her normal living expenses.

This legislation would exclude these gifts from an SSI recipient's calculation, and permit normal gift-giving between families and friends.

Consider existing procedures regarding reparation payments to Holocaust survivors. A survivor of the Nazi horrors who accepts reparation payments must include these payments as income, for purposes of determining his or her eligibility for SSI assistance. It never was the intent of the authors of this legislation to require such a standard of eligibility. It ought not remain. This legislation would permit Holocaust survivors to exclude reparation payments from their income calculations, to determine eligibility for SSI. We can do no less.

The current assets limitation, which essentially determines an American's eligibility for SSI, is dismally low. In the past decade, the Consumer Price Index has increased by 119 percent; yet the assets limitation for SSI eligibility has remained unchanged, at $1,500 for individuals and $2,250 for couples. These unrealistically low assets limitations exclude many individuals who, in all other respects, would qualify for SSI. This legislation provides a modest increase in the SSI assets limits, to $2,000 for individuals and to $3,000 for couples. We must enable the program to reach all those it was intended to help, and end the perpetuation of unduly restrictive eligibility criteria.

Current overpayment and underpayment procedures also are a nightmare for SSI recipients, regardless of who is at fault. Today, if an SSI recipient finally is compensated for many months of underpayment, he or she has only four months to spend the retroactive payment before it is considered an asset, for the purposes of determining future SSI eligibility. These compensatory payment checks can be quite

large, if underpayment has been protracted, and therefore cannot be spent responsibly in four months. This bill would correct this policy by extending the period of time before underpayment compensation would be considered an asset to one year.

This legislation would also modify SSI guidelines regarding overpayments. Under current procedures, if the Social Security Administration discovers that it has been overpaying an SSI recipient, for example, by $15 a month for six months, it can recoup the entire $90 from the SSI recipient's next monthly benefit check. The average SSI benefit check is less than $300 a month—and these recoupment procedures for overpayments are an entirely unreasonable and cruel tactic, one we should prohibit. This bill would limit monthly deductions for overpayments by no more than the greater of $10 or 10 percent of the benefit check. This bill also would limit recoupment of overpayments to the actual amount overpaid, so no individual will lose his or her entire benefit check when it exceeds the assets limit by only a small amount. This legislation also provides SSI recipients a related protection: when a recipient has been both overpaid and underpaid, no adjustment can be made for the underpayment until the individual has an opportunity to seek a waiver of the overpayment.

Such procedures and circumstances, and many others, obscure the true intent of the SSI program and undermine its integrity. The SSI Equitable Improvement and Reform Amendments of 1984 seek to remedy many of the current inequities, inequities in direct conflict with the program's charter.

Four million needy senior citizens, and blind and disabled children and adults depend on the assistance provided by SSI. They suffer from the various inequities and administrative inflexibility of the current program. They cannot mobilize powerful lobbies to represent their views and champion their cause. Many are not even able to communicate their situations to their elected officials. We must take up their cause.

I commend my colleagues in the House of Representatives, Congressmen Ford and Stark, for their attention to the SSI program, and urge my colleagues in both the House and the Senate, to join our effort for prompt passage of the SSI Equitable Improvement and Reform Amendments of 1984.

STATEMENT OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. PEPPER. Thank you, Pat.

Chairman FORD. Let me say we are delighted to have you testify before the subcommittee today, Senator, and hopefully in the near future we will be able to report this legislation out of the subcommittee and onto the full committee and hopefully the Senate will see fit to move this right away in the Senate as well.

Senator MOYNIHAN. We shall do our best.

Mr. Chairman, if you would allow me the discourtesy of leaving, we have a vote on very shortly on the Senate floor.

Chairman FORD. Again, thank you very much for coming.

Senator MOYNIHAN. My honor, sir.

Mr. PEPPER. Before he gets out of here, Mr. Chairman, I just want to say that I had the privilege of not only being a long-time friend of this great Senator from New York, who is so much a Senator for all of America, I found out the quality of his mind and the quality of his persistence and character of his courage.

I don't know of any man I have ever worked with that was more a pleasure to work with, a more comforting colleague and comrade, as Lyndon Johnson used to say, the kind of man you can go to the well with.

Thank you very much.

Chairman FORD. Senator, again, thank you very much.

Senator MOYNIHAN. Thank you, Mr. Chairman.

Mr. PEPPER. Mr. Chairman, members of the committee, first I want to commend you and your committee for the very fine thing that you have done in proposing to have these amendments to the

SSI bill and program. You have implemented as you know many of the recommendations that you helped promulgate as recommendations of the House Select Committee on Aging. In 1981, I believe that was.

These things that you have done in this legislation, actually many more than ordinarily is the effect of legislation we enact because you are giving these additional benefits to people who hardly have anything else. I heard someone get off a little thing the other day, it was Senator Moynihan by the way, I heard him in a speech, saying—I think he quoted me—that said when we got rid of the poll tax down in the South, I said how fortunate it was that we had been able to relieve a lot of the poor people of the necessity of paying that $2 before they could vote, and somebody said, well, $2, it isn't much.

I responded, no, if you have $2 it isn't much. But the people who don't have it, to them it is a lot.

What you have done is added a lot to so many people who had so little.

I have always credited Wilbur Mills with being primarily of the SSI legislation and I would like to honor his name for having done so because it reached out and equalized the minimum benefits that were payable to people all over the country that were in need. As the distinguished chairman knows, in California there were those on relief or welfare who might be getting a sizeable amount, $200 or $300; and another poorer State less disposed to be charitable, they might not get over $75.

I thought it was a wonderful thing when the Congress determined to equalize this benefit program all over America whether you were in one State or another. You got the same amount. To be perfectly frank with you, I wish the whole welfare need program were administered in the same way all over the Nation because basically I don't think cost of living varies so much among areas that it wouldn't be fair to give everybody in the same status about the same benefit.

But anyway, what you have done is to take a great many instances of where there were sort of mean things, burdensome things, rather unfair things in the old law affecting so many people that you have gone through now and eradicated most of those ills, most of those things we object to and have given a much fairer program to the blind, the poor, elderly poor, and the disabled of this country.

One of the humanitarian aspects of what you have done is the recognition that the little gifts that they receive should not be deducted as they have been deducted under the present law.

If they stay with another person, derive some benefit from that, they shouldn't just arbitrarily have one-third of their SSI benefits taken away from them. In respect of the amount of money that they may have, you have raised $1,500 to $2,000. That may not be a great deal to a great many people in America, but it is a great deal to people who don't have but $1,500 to be able to get $500 more under that program.

You are nearing the poverty level—you haven't reached it yet as I hope we will be able to do as I am sure you aspire to do before long. But as a matter of fact, my recollection is that in individual

cases, the benefit paid by SSI now is about 70 percent of the poverty level; in respect to couples, about 85 percent of the poverty level.

There will be those who accuse us all who support this legislation as a thing like we are trying to raise up to the unfair level the income of these people, but we have not yet gotten to the poverty level. I don't think it is extravagant not to have done that.

I would say only this, Mr. Chairman, that your heart has been in the right place. I hope there will come a time when we can increase the assets that the people may have. One of the unfortunate aspects of the Medicare Program and I understand now if you are eligible for SSI, you are eligible for Medicaid—but they will regularly require a person seeking Medicaid to become destitute before they are able to receive anything under that medical care program. Well, that is not fair.

You get them down to the point where they have to be the object of charity, almost, by requiring them to divest themselves of anything over whatever the amount has been—it is $1,500 I believe—you would bring it to $2000.

So I hope that you will continue the great work you have done and will continue to broaden this program so that people can—we know that unless you are in a state with a good subsidy, even the $314 that you get under this program is less than the poverty level by a good bit, and not enough for an individual to live on comfortably or the amount to be received by a couple is not enough for them either to live on decently.

So I want to commend you, Mr. Chairman, you and your committee, upon what you have done. I tell you personally I appreciate the privilege of anticipating voting for these amendments that you have proposed to this SSI legislation.

Let me just say one other thing. A lot of people down home will say to me in respect to a lot of newcomers that we have from Haiti or from Cuba, why is it those people are able to get social security? They are getting social security.

I said, no, they are not getting social security. You don't—nobody gets social security who hasn't paid in so many quarters. Those people have just come over here and they don't qualify for that even if they were eligible otherwise. I am sure they are talking about SSI benefits, however, and it is a Federal program. I hope that we can see the day when we will also have a federally-directed, federally-managed program under which every man, woman, and child in America can get the medical care they need and should have within his or her means to pay for it.

That is one of the challenges I think facing our Congress and our country.

I had a lady in my office the other day who said, Mr. Pepper, I was retired but now my husband has Alzheimer's disease and he is in an institution, I have to go back to work. She said, it takes every penny I make to keep him in that institution. And I said, well, I am sure that is a very heavy burden for you to bear.

But she said, what I don't understand is, I had a letter the other day from a friend of mine in England, she said her husband has Alzheimer's disease and he is in an institution and it doesn't cost her a penny.

We know of people who absolutely made themselves destitute trying to take care of members of their family who have Alzheimer's disease or some other terrible disease like that.

She said, why is that?

I said, because in Britain they have a national health insurance program that we don't have in this country.

So I am talking about this principle of universal application which is embodied in SSI. That is a fair principle, it is a national principle, it is an American principle, we are treating all Americans alike under this program.

I hope we can extend that same principle to the other areas of compelling needs like the medical care area for people of this country, especially for the elderly people.

Mr. Chairman, I have a statement here that goes into more detail than I have but it strongly supports your generous action and I commend you for what you have done.

Chairman FORD. Your statement will be made a part of the record, sir.

Mr. PEPPER. Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman and members of the subcommittee, I am pleased to appear before you today in order to indicate my strong support for H.R. 5341, the SSI Equitable Improvements and Reform Amendments of 1984. Many of the provisions in this bill have been recommended by various commissions, task forces, study groups, Members and Committees of Congress, and a multitude of organizations concerned with the poor, the blind and the disabled.

This legislation is addressed to perhaps the most disadvantaged members of American society: some 3.9 million blind, disabled and elderly persons doomed to an existence in abject poverty. This is not a value judgment, but is true by definition. In 1983, the Federal SSI benefit rate for an individual with no income or resources was about seventy percent of the Federal Government official poverty standard. For couples, the maximum Federal benefit constituted 85 percent of the poverty level. In short, Mr. Chairman, the SSI program does not even guarantee an existence at the level recognized by the Federal government as the minimum humane standard for subsistence.

What the SSI program does provide is a mechanism through which the poorest of America's poor are provided with at least a bare minimum, nationally uniform base level of income. Only 10 years ago, SSI supplanted a patchwork of state and local public assistance grant programs. Under the fragmented system of Old Age Assistance, Aid to the Blind and Aid to the Permanently and Totally Disabled, States were able to determine their own definition of what they recognized as a necessary amount to meet basic needs for an aged, blind or disabled individual with no countable income. No less than 15 states failed to pay benefits which equaled their own State standards. During 1973, the last year of operation for the Old Age Assistance and related programs, maximum monthly benefits equaled $99 in Georgia, $97 in Tennessee, $96 in Maryland, $90 in South Carolina, $85 in Missouri and $75 in Mississippi.

Payment standards varied considerably between States, ranging from $250 in Alaska and $204 in Massachusetts to $75 in Mississippi. Although the latitude given States under the Old Age Assistance programs was intended to provide flexibility in order to meet regional variations in the cost of living, differences in benefit levels from State to State often reflected variations in political climate. An elderly beneficiary in Kansas City, Kansas was eligible for a maximum monthly benefit of $203 in 1973, for example, while a neighbor living a few hundred feet away in Kansas City, Missouri could receive only $85.

These programs were often harshly administered and were characterized by lien laws and relative responsibility provisions which reinforced the welfare stigma and discouraged needy people from seeking assistance. Many of the State programs used

an individual budget method to determine need. A social worker, using a list of itemized budget items, tailored an individual budget for each applicant. Many elderly, blind, and disabled recipients participated in order to receive their meager grant but considered the individual budget method demeaning.

The intent of the SSI program was to change all that. A Federally-funded, Federally-administered SSI benefit provided a uniform minimum level of assistance throughout the nation, to which States were given economic incentives to supplement. Moreover, SSI substituted for the individual budget system a flat grant system under which the benefit amount would simply make up the difference between countable income and the maximum benefit rate. Congress instituted the flat grant in recognition of the importance of allowing recipients to decide how best to use their cash assistance. Even the name—Supplemental Security Income—was intended to rid the program of the stigma associated with a means—tested program and to allow its participants to retain their dignity.

I take this time to recall the original intent of SSI because I believe that the legislation before this subcommittee corrects a large assortment of rules and requirements which are characteristic of the defunct set of programs replaced by SSI. In some instances, certain benefit standards have not been updated for increases in the cost of living since the inception of the program. These problems can be remedied by simply updating and indexing future standards. There are other program requirements, however, that almost seem spiteful in their application. I will highlight just a few of them.

IN-KIND ASSISTANCE—LIVING IN THE HOME OF ANOTHER

Under present law, one-third of the resources of an ineligible family is deemed to be available to an SSI recipient who resides with that person or family. That is, an SSI recipient living in the household of another is deemed to be receiving "support and maintenance in-kind" and the value of that in-kind assistance is presumed to equal one-thired of the Federal SSI standard. As a result, his or her benefit is reduced by one-third.

The resources of the ineligible person or family are deemed to a live-in recipient irrespective of the number of dependents in the household. "Deeming" also applies without regard to the extent that a recipient is paying a share of the household expenses. The one-third reduction occurs even when the noneligible persons are themselves poor, albeit not poor enough to meet the stringent income and asset of SSI. Finally, the one-third reduction is applied without regard for whether the recipient actually benefits from the income.

As the former chairman of the Select Committee on Aging, the one-third reduction has always struck me as sounding reasonable in the abstract while turning out to be unduly harsh in its application. It is quite possible that an SSI recipient or two might abide in the relatively posh surroundings provided by the ineligible individual or family with whom they live. My experience would indicate that this is exceedingly rare. It is far more likely that any nonparticipants an SSI beneficiary is sharing a household with will be near-poor or poor themselves.

Section 301 of the bill addresses this particular concern with the one-third reduction when an SSI beneficiary lives in the household of a noneligible individual.

IN-KIND ASSISTANCE—MISCELLANEOUS

Current law allows the reduction of benefits to the extent that the fair market value of an item or service purchased by a recipient exceeds the sum paid for it. The effect of this provision can be particularly severe because the reduction in benefits is not limited to one-third. Rather, "in-kind support and maintenance" received in this manner is treated as unearned income and reduces the SSI benefit dollar for dollar.

The effect of this requirement is illustrated by the following example from the 1980 Aging Committee report "Retirement: The Broken Promise."

"A 75-year-old woman with severe arthritis was left alone when her husband died. She decided to sell her house and purchase a trailer in which to live so that she would not have to be alone. Her daughter offered to allow her to place the trailer on a small parcel of the daughter's property without any charge. The Social Security Administration wrote the daughter asking how much she would charge for rental of the small piece of land if someone other than her mother had placed a trailer on the property. Not understanding the purpose of the question or its impact, the daughter responded that she would not allow anyone other than her mother to use the land, but, if she did, she would charge $40 per month. The next week the woman received notification that her SSI check would be reduced by $40 due to the

fact that the rent-free use of the small plot on her daughter's property constituted in-kind support and maintenance. The loss of this much-needed income has caused the daughter and the entire family extreme distress. . . ."

Under the requirement, "in-kind income" so received is treated as equivalent in value to a cash transfer. The benefit is reduced as if the recipient had just received the item or service in cash. Yet there is no evidence that the two are in fact equal. An "in-kind" transfer has no market-established value. Rather, its value is determined through the subjective decision of the Social Security Administration. The recipient typically has no power to control the consumption, style or kind of commodity he or she receives. In-kind goods or services usually have little or no re-transfer value. (For example, to the extent that an individual pays for less than the market value for an apartment, he cannot freely dispose of the difference in the cost and the market value.)

It seems somewhat cruel and niggardly to deprive the lowest-income aged, blind and disabled population of the benefit of any bargains they are able to strike or of any charity they might receive. Benefits below the poverty line make thrift an absolute necessity. For those with no other source of income, an individual must be able to economize on some items or possibly fail to survive. The flat grant approach of SSI presumes that a recipient will find ways to save in one area in order to meet expenses in another. Under this requirement, any savings are considered as "income" and reduce SSI benefits accordingly.

Sections 101 and 102 of the bill bring the program much closer to its original intent by disregarding gifts which would not be counted as a liquid asset and by disregarding certain emergency and other in-kind assistance provided by non-profit organizations.

TREATMENT OF CERTAIN RESOURCES

In other to receive SSI, an individual must possess less than $1,500 in assets; the limit for couples is $2,250. These limits were enacted in 1972 and have not been updated. Not all resources are "countable" in determining a beneficiary unit's assets, however. The value of a person's home is excluded from being counted as a resource by law, as is a life insurance policy with a face value of $1,500 or less, and the first $6,000 of nonliquid income-producing investments. In addition, the Secretary of Health and Human Services is required by law to establish, through regulation, limits on the value of an automobile and personal effects which may be excluded. Currently, the first $5,000 of an automobile and the first $2,000 of household goods and personal effects are disregarded for the purposes of determining eligibility.

The effect of the resource test on program participation has been well-documented. The 1979 Social Security Advisory Council conservatively estimated the number of aged persons eligible for SSI at 4.3 million, although only 1.9 million actually participated in the program as of last year. It seems clear that the resource test is demeaning enough to the eligible population to discourage more than half of them from participating in the SSI program.

Many of the elderly poor have managed to save very modest sums which still exceed the parsimonious SSI means test. More than 700,000 elderly people fit into this category. They live on below-poverty-level incomes which would qualify them for SSI but are carefully nursing a tiny next egg which might exceed, by a mere pittance, the wafer-thin security afforded by $1,500 in savings.

Sections 204 and 205 partially address the problems created by the resource test by increasing the countable limits to $2,000 for an individual and $3,000 for a couple and by disregarding the entire value of a car rather than some arbitrary portion of it.

The increase in the asset limits brings them much closer, in constant dollars, to their 1974 levels. Unfortunately, thousands of needy persons just over the new limits will still be ineligible for benefits. Data provided by the Social Security Administration reflect what seems to be common sense: the vast majority of people with incomes poor enough to qualify for SSI are unlikely to have vast sums of money hidden away. I support the increase in the asset test as an interim measure. Ultimately, I hope that Congress will abolish the inequitable, demeaning, costly, inefficient and unnecessary resource test.

There are numerous other provisions in H.R. 5341 which I support and which were recommendations of the 1980 Aging Committee report "Retirement: The Broken Promise." Sections 302 and 303, in particular, which improve benefits to residents of Medicaid facilities, will improve the chances that many will be economically able to return to the community after a temporary nursing home stay. I also

applaud the sections of the bill (201, 501, 505, 506) which attempt to introduce a measure of humanity to the manner in which overpayments are dealt with.

This subcommittee has always taken the lead in initiating program improvements designed to shape SSI into the program Congress meant it to be. Only last year this subcommittee's action resulted in the first across-the-board real increase in benefits since the inception of the program. Because of this action, the SSI program now guarantees an income of 78 percent of the poverty level for an individual and 92 percent for a couple. The day when the most disadvantaged members of our society can live at least at the poverty level cannot arrive too soon.

Within the current fiscal restraints, however, the provisions of H.R. 5341 will address some of the aspects of the SSI program which border on the mean-spirited in their practical application. While the benefit levels of the program are hardly lavish ($314 for an individual, $472 for a couple), Congress created the SSI program in order to introduce a measure of compassion into public assistance for the aged, blind and disabled. By helping to restore the Supplemental Security Income program to its original intent, H.R. 5341 will restore some dignity to the lives of millions of recipients.

Chairman FORD. We would like to thank you for appearing before the committee and giving your testimony today. It goes without saying that you have championed the cause of the elderly, blind, aged, and disabled for some time in this country. As chairman of this subcommittee, Senator, I must say to you that it will be left to people like you who will clear the way for final passage of this legislation as we move it through the legislative process itself.

Mr. PEPPER. Mr. Chairman, as a member of that committee you have made your own contribution to what we have done for the elderly in America.

Chairman FORD. I have just been in there trying to work with this giant among giants, the Senator himself, the spokesperson for aged, blind, and disabled in the country. We look forward in working with you as we try to clear this legislation through the House within coming weeks.

Mr. PEPPER. Thank you very much.

Chairman FORD. At this time the Chair will recognize Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

I just wanted to extend my commendation and appreciation to Senator Pepper, also.

I know Senator Pepper was in my district a couple of days ago and the people there are still in awe of the greatness that he left behind when he left the county. I want to thank him for his long history of concern about these areas. If I might mention, Mr. Chairman, and Senator Pepper, one thing, I couldn't agree with you more on the need to do something about access to medical care. One of the great tragedies of our welfare system, our SSI system, and our AFDC system, is when people go off AFDC and lose that Medicaid card, they lose a great deal, and often go from people in relatively good circumstances to people in poverty just because of medical expenses.

It is an area we do need to look into and I have introduced a bill which I would like to share with you at some point to address that specific problem.

Mr. PEPPER. Mr. Chairman, Mr. Pease, it is a delight to be in Mr. Pease' district. I saw the universal esteem and affection they have for him out there among his constituents. He gave me a very fine introduction. It was a delight to be with him and I am so glad to have gone with you, to work with anyone who is interested in this medical field.

I think that is one of our great challenges. I know you are working in that area. Thank you again, Mr. Chairman.

Chairman FORD. Thank you.

I must put in a plug for my hometown, on May 26 we are looking for you in Memphis, TN, on Senior Day Rally to be held then. We look forward to seeing you there.

Mr. PEPPER. Thank you very much, Mr. Chairman.

Chairman FORD. The committee will now call on the Honorable Lane Evans, Congressman from the State of Illinois, accompanied by Ms. Ruth Howard of Canton, IL, along with the Honorable Bruce Morrison, the Congressman from the State of Connecticut.

Mr. PEPPER. Morrison is not here.

STATEMENT OF HON. LANE EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. EVANS. Thank you, Mr. Chairman.

If I may, Mr. Chairman——

Chairman FORD. We would be happy to recognize you at this time, Mr. Evans.

Mr. EVANS. I want to thank you and the members of the subcommittee for the chance to talk about the SSI Program today and I commend you and Mr. Stark, Mr. Pease, for introducing SSI legislation.

With me is Mrs. Ruth Howard, a constituent of mine from Canton, IL. Mrs. Howard first brought to my attention that people on SSI who enter long-term Medicaid-approved nursing facilities receive $25 from SSI for personal needs and Medicaid picks up the tab for the room and board.

This allowance has remained at the same level, as you indicated in your earlier remarks, since SSI began in 1974, and it is the only part of SSI not indexed to the CPI.

I introduced a bill last September which would raise the personal needs allowance from $25 to $50 a month, and it would index it to the rate of inflation.

H.R. 3990 has 36 cosponsors from both parties to date including Congressman Roybal, chairman of the House Select Committee on Aging.

The need for an increase in this allowance is obvious. The inflation rate since 1974 is nearly 115 percent. The cost of goods purchased with the $25 each month has gone up with inflation, but the allowance stayed the same.

There are those who advocate turning to the States and requesting that they supplement the Federal allowance, but most States are already heavily burdened by the additional load that this administration has forced them to bear. It is wholly unrealistic to think that they can come up with the necessary funds without causing significant hardships elsewhere in their budgets.

In conclusion, I believe it is incumbent upon this Congress to acknowledge the oversight—not allowing for increases in the SSI recipients. Prices have more than doubled since 1974, and yet, for 10 years, we have asked over 200,000 Americans to make do with the same $25 allowance.

While I join with my colleagues on both sides of the aisle in recognizing the need to keep costs down and reduce our Federal deficit, I believe it is a mark of truly civilized society to provide for its citizens who are least able to care for themselves, and I respectfully urge that the members of this subcommittee incorporate into H.R. 5341 my legislation to double the personal needs allowance from $25 to $50 per month and to index it to the CPI.

Before I yield to Mrs. Howard, I would like to ask that my full statement be included in the record.

Chairman FORD. Your full statement will be made a part of the record, Mr. Evans.

[The prepared statement follows:]

STATEMENT OF HON. LANE EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, Members of the Subcommittee, I am grateful for the opportunity to speak to you today about the Supplemental Security Income (SSI) program. Accompanying me is Mrs. Ruth Howard, a constituent of mine from Canton, Illinois, who is a resident of the Nursing Center of Canton and an SSI recipient. After I conclude my remarks I would like to yield some of my time to Mrs. Howard so you can hear first hand how an SSI recipient feels about the current program.

MR. Chairman, I would first like to commend you and the Chairman of the Subcommittee on Select Revenue Measures for introducing H.R. 5341, the SSI Equitable Improvements and Reform Amendments of 1984, and for giving those of us interested in SSI an opportunity to testify at this hearing.

I am concerned about a particular provision of the SSI program—the personal needs allowance for nursing home residents. This provision is one of the two so-called "big-ticket" items in the omnibus reform bill, the other being an increase in the assets limit, which was, as you know, included in the Budget Resolution.

Late last September, before this bill was drafted, I introduced H.R. 3990, a bill which would raise the personal needs allowance from its current level of $25 per month to $50 per month, and to allow it to be subject to cost-of-living adjustments. I am pleased that my bill has attracted 36 co-sponsors from both parties. The need for an increase in this allowance is obvious. The SSI program, which was passed in 1972 and went into effect in 1974, is over ten years old. The $25 per month personal needs allowance, unlike other parts of SSI, was *not* adjusted annually according to the Consumer Price Index. Therefore, while other SSI benefits have kept pace with inflation, the allowance has remained unchanged for the past ten years. At the same time, the cost of the goods that SSI recipients like Mrs. Howard purchase with the $25 each month has increased nearly 115%.

Nursing home residents do not have extravagant lifestyles; the little things we take for granted are burdensome extra costs for them. For example, many older people spend a good deal of time writing letters or sending cards to relatives and friends. Stationery, envelopes, pens and postage must all come out of that $25. When you consider that the cost of a first class letter has doubled from 10 cents since 1974 you can see how postage for just a few letters would be a significant cost for these citizens.

Nursing home residents must also use their allowance to buy a pair of shoes, a shirt or dress, toothpaste and shampoo, even a banana, apple or candy bar. An apple can cost fifty cents, and a pair of shoes at today's prices would cost more than a recipients' entire monthly stipend and leave no room for anything else.

Medicaid does pay for basic room and board; these residents are not starving or ill-treated due to a lack of funds. But each state can decide, within certain federal guidelines, what Medicaid will pay for. The policies of this Administration have increased the demands on state governments to pick up a greater part of the tab on everything from education to sewer systems. State dollars have been stretched to the breaking point, and budget cuts in my home state of Illinois have removed things like multi-vitamins, skin cream, and brand name drugs from the list of items covered by Medicaid. If residents want these items, they will now have to pay for them from their $25 monthly allowance.

Let me say right up front that this proposed increase may seem costly to a very cost-conscious Congress. Approximately 210,000 people in the U.S. are eligible to receive the benefit, and the Ways and Means Committee has advised me that the one-

time, $25 jump that my bill calls for would cost general revenues over $60 million the first year. The omnibus SSI bill calls for the personal needs allowance to be raised to $35 per month at a correspondingly smaller cost. As the CPI rises, both measures call for the personal needs allowance to receive a cost-of-living adjustment, making further demands on general revenues.

There are those who advocate turning again to the states and requesting that they supplement the federal allowance. Some states currently supplement the $25 personal needs allowance. Oklahoma SSI recipients have received $25 from the federal government and $30 from the state for several years. A measure to require an SSI supplement is working its way through the Illinois State Legislature right now.

Most states are already heavily burdened by the additional load this Administration has forced them to bear, and it is unrealistic to think that they can come up with the necessary funds without causing significant hardship elsewhere in their budgets.

It is also unfair to expect states to pick up the additional tab in light of the original intention of the 1972 SSI legislation. Prior to 1974, each state had its own program under the Social Security Act which provided for the aged, blind and disabled who could not afford to take care of themselves. In 1972 the federal government made a commitment to take responsibility for these citizens in order to ensure a consistent and fair program nationwide. On January 1, 1974, the federal government carried out that decision by making the first equal benefit payments to all eligible recipients.

It is incumbent upon this Congress to acknowledge the oversight of not allowing for increases in the cost of living for SSI recipients in nursing homes. Inflation has raised prices nearly 115% since 1974, and yet for ten years we have asked over 200,000 Americans to "make do" with the same $25 allowance. I join with my Colleagues on both sides of the aisle in recognizing the need to keep costs down and reduce our federal deficit. Therefore, to be fiscally responsible, I know that I must identify costs which could be eliminated to make room for a personal needs allowance increase. Let me make a few suggestions as to where these funds might come from: $117 million for chemical nerve gas weapons; $1.8 billion for one Trident II nuclear submarine; $80 million for one MX missile; $6 billion from capping the third year of the tax cut; millions of dollars from closing tax loopholes which benefit large corporations and the wealthiest Americans.

These represent just a fraction of our government's funding decisions which could be reexamined in light of the needs of our older Americans. It is the mark of a truly civilized country to provide for its citizens who are least able to care for themselves. I respectfully urge the Members of this Subcommittee to incorporate in H.R. 5341 my legislation to double the personal needs allowance from $25 to $50 per month, and to index it to the CPI.

Mr. EVANS. I would like to yield now to Mrs. Howard, nursing home resident and SSI recipient. She began her crusade to raise the personal needs allowance back in 1982, before I was elected to Congress. Her first letter to me arrived in March 1983 and they haven't stopped since. And I am pleased you are giving her an opportunity to speak.

Chairman FORD. The chairman will recognize Mrs. Howard at this time.

STATEMENT OF RUTH HOWARD, CANTON, IL

Ms. HOWARD. Thank you, your Honor. I am glad to be here. I didn't think it would ever come about but I am here.

Chairman FORD. We are delighted to have you come before the committee and testify.

Ms. HOWARD. It was a good trip even if we did hit stormy weather.

One thing, I am glad to have met Senator Moynihan and Claude Pepper. I had a card from him when I wrote to him the first time. On that card, in red ink it said, "Referred to the Hon. Lane Evans." That was the way it was stated.

Lane has mentioned this; I started this in September 1982 by holding a meeting in the nursing home with our State's attorney who was Tom Homer. He is now State representative in Springfield.

It has gone on and on until things culminated and I am here. For instance, showing you what comes about, with $25 a month to spend, there was a lady in our home that was critically ill. The doctor prescribed medication which was not covered by public aid or Medicaid or anything. The bill would be $70 a month. She couldn't pay for it. They went to her granddaughter and great-granddaughter who worked in the nursing home at that time and they said they would try to pay for it. They would take the responsibility. The lady ended up in the hospital and passed away. That is one instance of not being able to have medication due to cutbacks, which it is a critical situation.

Myself, 2 weeks ago, I had to buy my own cough medicine. It was only $1.73 but it was one of those things that public aid had always paid for and they won't do it now.

We have a man who is a prospective artist; he is 82 years old, Ernie Cisco, and he has been going to art classes in the junior college that we have there and he has to have special shoes due to the fact that his feet and legs were frozen at one time. He almost lost them.

He has to have special types of shoes. The last pair he bought cost him $20.

Now, when he is going to need new ones very shortly, they will be in the neighborhood of $60 to $70. How can he pay for those on $25 a month? Who is going to pay for them? If he doesn't, who will? Will he go barefooted, or what?

Now, I will give you a little instance. At the time we had AP wire notice out at Christmastime, they wrote about a pair of shoes that I had had for 13 years. I had not had a new pair of dress shoes. I didn't mean that I needed a new pair of shoes, but I had offers from all over the United States for a pair of shoes and right here, sitting right here, I have on those famous shoes. I wanted to bring that out.

I think it has come to a time where you gentlemen should see fit to vote in favor of this bill so that the people on SSI can have more than $12, $19, and $25 a month.

I know of one instance in a nursing home in Canton that the lady only gets $12 a month. Why? I don't know. I don't know the exact reason.

There are two or three in our home that only get $19. We have children in the home that are getting something from SSI, I believe. They don't have enough money to spend to buy them enough clothes because they need several changes during the day and the night. They need more clothing. They don't have any—their families have put them in there. They don't have the money to support them. They put on clothes that, well, they are not fit to wear.

I thank you for your time. I don't want to take up more time. I could go on and on and on, but that is definitely the way things stand out there and I think something should be done about it.

Chairman FORD. Thank you, Mrs. Howard.

May I raise one or two questions, Mrs. Howard? When you first met with the tenants in the nursing home there and discussed the $25 SSI payment, what dollar amount did you find that those residents within the nursing home would be talking about the real need to be?

In the legislation before us today, we are talking about $35. Congressman Evans has proposed to double that to $50. What do you think would be a reasonable amount that would take care of the necessities for those residents of the nursing home?

Ms. HOWARD. I think it will need the $25 increase as well as a cost-of-living increase automatically as time goes by.

Chairman FORD. We understand, but what do you think to bring that $25 payment or whatever the monthly SSI payment would be, bring it to be in line before the cost-of-living adjustment that will trigger in?

Ms. HOWARD. It is not up to what it ought to be.

Chairman FORD. What do you think you would be comfortable with to take care of necessities needed for the residents of the nursing homes?

Ms. HOWARD. I think $75 for this reason: Ten years ago you paid $10 for something; today it is $30 or more.

My petitions originally were for $75.

Chairman FORD What are some of the items that residents of nursing homes would need?

Ms. HOWARD. Cigarettes for people that smoke—a pack a day, 90 cents a pack. God, that won't pay for it.

People like to buy chewing gum, candy, soda pop. We have machines in the home. We have to buy our own personal clothing, get our hair fixed. The men have to pay for their shaves and their hair-cuts.

Anything that is personal we have to pay for ourselves or do without. If we want to go out with a friend and have dinner out someplace, those that are able to get out, we have to pay for it out of that $25. If the friend doesn't come forth and offer to pay for it, of course.

Chairman FORD. Do you find many residents running out of money before the end of the month?

Ms. HOWARD. Oh, yes.

Chairman FORD. What happens at that point?

Ms. HOWARD. They go mooching for cigarettes and anything else they can get. They mooch from somebody else that might have a little left over. And they even go so far—I have seen them—as to ask visitors that come in if they could give them a little money. I have seen that happen time after time.

I want to say at this time, the owner of the nursing home has backed me up from the beginning. He told the administrator to give me anything I needed, postage, stationery, secretarial work, because I can't write, you know, due to the crippling of my hands.

Also, telephone calls. And up to the time of Christmas when I got all kinds of letters, I would say in the neighborhood of 300 letters, telephone calls and so on, and gifts of money and presents, and I formed a fund with that money that I got to continue my campaign for this bill. That is what I have used that money for.

Chairman FORD. I would like for you to know that Congressman Evans has certainly not only lobbied the chairman of this committee, but he has talked with me and other members of the subcommittee in trying to push this legislation through and we feel very proud and honored to have you come before the committee today with the request made by Congressman Evans and we really appreciate your taking time from your busy campaign to come here to the Congress to talk with us.

Ms. HOWARD. It has been busy lately, I will tell you.

Chairman FORD. And we are happy to have you here. We thank you for coming.

Ms. HOWARD. It is my first trip to Washington.

Chairman FORD. You see how going out and campaigning and moving the legislation helps us out?

Ms. HOWARD. I'm sorry I missed the cherry blossoms. I would like for you to meet the two ladies with me.

Chairman FORD. At this time we will let you recognize them.

Ms. HOWARD. Dolly Dykes, the nursing assistant, and Elizabeth Gregg, the nurse with me to see I get everything I need and get taken care of.

Chairman FORD. Is that out of the $25 a month?

Ms. HOWARD. I don't pay them. Mr. Evans paid for them.

Chairman FORD. OK. Thank you very much.

The Chair will recognize Mr. Pease.

Mr. PEASE. Mr. Chairman, I don't have any questions. I would just like to thank Mrs. Howard for appearing before us and commend her on having a Congressman who is as concerned as Mr. Evans is who would go to the lengths that he has to get you here before us to testify.

Thank you.

Chairman FORD. Mr. Moore.

Mr. MOORE. I have no questions. We thank you for your testimony.

Chairman FORD. Thank you, Mr. Evans. And thank you, Mrs. Howard.

The committee will recognize the first panel—Mr. Morrison, excuse me. Congressman Morrison is here now.

The Chair will recognize Congressman Bruce Morrison.

STATEMENT OF HON. BRUCE A. MORRISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MORRISON. Thank you very much, Mr. Chairman.

Mr. Chairman, I apologize for being late and I thank you.

Chairman FORD. You are right on time, Bruce.

Mr. MORRISON. Thank you very much for the opportunity to testify before your subcommittee. I have submitted written testimony and I will briefly summarize it and be glad to answer questions.

Chairman FORD. Your full statement will be made a part of the record.

Mr. MORRISON. Thank you, Mr. Chairman.

I have introduced a bill, H.R. 5411, to try to address a problem that arises both under title II and title XVI of the Social Security Act, that is both social security and SSI. That is the circumstance

in which, after the death of a beneficiary, funds continue to be paid under that beneficiary's account and received by his spouse.

Then after the Social Security Administration finally processes the notice of death, they treat funds which have been paid out from the time of death, not as an overpayment but as a so-called erroneous payment.

Social Security reclaims those funds not using the procedures for overpayments—which involve notice and an opportunity to contest whether the overpayment was in fact made and also an opportunity to make a showing that there would be undue hardship in recovering those payments—but rather through a reclamation procedure which is automatic, which does not provide for notice, and which does not provide for opportunity to claim that the payments ought to be retained for any reason whatever, or that a reasonable repayment plan ought to be set up over a period of time.

This has caused hardship to many individuals around the country, including people in my district about whom there was litigation to solve this problem in the title II context. But it is also a potential problem with respect to title XVI.

My bill would address both. Obviously, since your subcommittee is considering comprehensive changes with respect to title XVI, I would ask your consideration of this somewhat technical—but I think very important—change, which would provide that in this circumstance, when there is a deceased beneficiary and there is the continued payment to his account, when his spouse continues to live, that any adjustment with respect to that individual's receipt of funds after death would go through the overpayment procedure rather than through the reclamation procedure.

I think the language that is set forth in my bill would accomplish that purpose. It is the section dealing with title XVI, obviously, rather than title II.

[The prepared statement and attachments follow:]

STATEMENT OF HON. BRUCE A. MORRISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Chairman, I am very grateful for the opportunity to testify today.

I would like to bring the Subcommittee's attention to a continuing problem in the administration of both Social Security and the Supplemental Security Income (SSI) program.

As I am sure the members of the Subcommittee are aware, Social Security and SSI checks are regularly sent out after beneficiaries die, even when the Social Security Administration has prompt notice of the death of these persons. Later, however when the bureaucracy catches up Social Security will recoup the payments through a process known as "reclamation": Social Security notifies the Treasury Department which instructs the bank which cashed the checks or received them through direct deposit to debit the depositor's account.

Neither Social Security nor Treasury gives prior notice of the recoupment action. Nor is the depositor afforded the opportunity to negotiate a repayment schedule or to request a waiver of the recoupment in cases of special hardship. Social Security maintains that these rights, which are required in all cases of overpayment, do not apply because these payments are not overpayments, but "erroneous" payments.

I first became aware of this problem when I was Executive Director of the New Haven Legal Assistance Association, which provides legal representation to senior citizens through a special Elderly Law Unit.

One of our clients, Mrs. Alphena Breault, of West Haven, Connecticut, was a Social Security recipient at the time that Mr. Breault, also a Social Security recipient died. Mrs. Breault promptly notified the Social Security Administration of his death. While waiting for her widow's benefits to be processed, she received several

checks in her husband's name. A Social Security employee advised her that she should deposit those checks to her checking account to use for her living expenses (her own monthly retirement benefits were only $87.25 per month), and that her account would be adjusted later on.

Many months later, that "adjustment" came all at once and without warning. The entire amount of her husband's checks was suddenly taken out of her bank account. The only notice that Mrs. Breault received was when she was told by her car mechanic that the check she had written to him for repair work had bounced.

Mrs. Breault was one of the plaintiffs in a class action suit in the U.S. Federal District Court in Connecticut, *Breault* v. *Heckler*, which challenged these procedures on the ground that they violate the overpayment provision of the Social Security Act. U.S. Magistrate Arthur Lattimer has ruled in the plaintiffs' favor. I understand that other federal courts have reached similar conclusions. Nevertheless, the reclamation procedures are still followed in parts of the country where they have not been forbidden by the courts.

Mrs. Breault was a recipient of Social Security benefits under Title II of the Social Security Act. But her problem is shared by people who receive SSI benefits under Title XVI.

I have introduced a bill, H.R. 5411, which would amend the definitions of overpayment in the Social Security Act [sections 204(a) and 1631 (b)] to make it clear that Congress intends the procedural protections afforded to Social Security and SSI recipients who receive overpayments to be afforded to surviving spouses who receive the benefit payments of their deceased spouses. If adopted, my bill would require that prior to any collection action, Social Security must first ascertain whether the person who received the payment is a surviving spouse entitled to Social Security or SSI. If so, it would be limited to the methods for recovery of overpayment authorized in the Social Security Act and would be required to extend the waiver provisions of the Act to such persons. The surviving spouse would receive notice of the recovery action and have an opportunity to establish a repayment schedule or to seek waiver in cases of special hardship.

Mr. Chairman, I am sure that you will agree with me that Congress intended that all Social Security and SSI recipients who are overpaid by mistake should be afforded the fundamental rights of prior notice, a fair repayment schedule, and waiver in cases of special hardship. The Social Security Administration is using bureaucratic double-talk to get around that intent and deprive recently widowed recipients—a category of people who should be afforded, if anything greater, not lesser, protections—of these fundamental rights. We need to put a stop to this outrageous abuse of the dignity and well-being of our senior citizens.

I hope that the Subcommittee will consider including the provisions of H.R. 5411 in the legislation being considered today.

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98TH CONGRESS
2D SESSION

H. R. 5411

To amend titles II and XVI of the Social Security Act to make it clear that when a deceased individual's surviving spouse receives a payment which was issued to such individual but to which such individual was not entitled (under the OASDI or SSI program) the amount of such payment is to be treated as an overpayment to such surviving spouse.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1984

Mr. MORRISON of Connecticut introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend titles II and XVI of the Social Security Act to make it clear that when a deceased individual's surviving spouse receives a payment which was issued to such individual but to which such individual was not entitled (under the OASDI or SSI program) the amount of such payment is to be treated as an overpayment to such surviving spouse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (2)) the following new sentence:

"Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to an individual who has died, and such payment is received by the person who is determined by the Secretary to be the surviving spouse of such individual and to have been entitled (for the month in which such individual died) to a monthly benefit on the basis of the same wages and self-employment income as was such individual, the amount of such payment (in excess of the correct amount) shall be deemed to be a payment of more than the correct amount to such surviving spouse.".

(b) Section 1631(b) of such Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made with respect to an individual who has died, and such payment is received by the person who is determined by the Secretary to be the surviving spouse of such individual and to have been entitled (for the month in which such individual died) to a benefit under this title (either as the eligible individual or as such individual's eligible spouse), the amount of such payment (in excess of the correct amount) shall be deemed to be

a payment of more than the correct amount to such surviving spouse.".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

○

A BILL TO END UNFAIR TREATMENT OF WIDOWED SOCIAL SECURITY RECIPIENTS

Mr. Chairman, today I have introduced legislation to relieve the anxiety, embarrassment, and hardship felt by too many of our nation's senior citizens as a result of the federal procedures used to collect Social Security and SSI payments made to deceased beneficiaries and received by their surviving spouses.

Let me share with you just one of the experiences of Social Security recipients in Connecticut's Third Congressional District with these arbitrary and unfair procedures.

Mrs. Alphena Breault, of West Haven, Connecticut, and her husband were both Social Security recipients at the time that Mr. Breault died. Mrs. Breault promptly notified the Social Security Administration of his death. While waiting for her widow's benefits to be processed, she received several checks in her husband's name. A Social Security employee advised her that she should deposit those checks in her checking account to use for her living expenses (her own monthly retirement benefits were only $87.25 per month), and that her account would be adjusted later on.

Many months later, that "adjustment" came all at once and without warning. The entire amount of her husband's checks was suddenly taken out of her bank account. The only notice that Mrs. Breault received was when she was told by her car mechanic that the check she had written to him for repair work had bounced.

I know of many other Social Security recipients in my district who have had similar experiences. Social Security checks are regularly sent out after beneficiaries die, even when the Social Security Administration has prompt notice of the death of these persons. Later, however, when the bureaucracy catches up, Social Security will recoup the payments through a process known as "reclamation": Social Security notifies the Treasury Department, which instructs the bank which cashed the checks or received them through direct deposit to debit the depositor's account.

Neither Social Security nor Treasury gives prior notice of the recoupment action. Nor is the depositor afforded the opportunity to negotiate a repayment schedule or to request a waiver of the recoupment in cases of special hardship. Social Security maintains that these rights, which are required in all cases of overpayment, do not apply because these payments are not overpayments, but "erroneous" payments.

Mrs. Breault was one of the plaintiffs in a class action suit in the U.S. Federal district Court in Connecticut, *Breault* v. *Heckler*, which challenged these procedures on the ground that they violate the overpayment provision of the Social Security Act. U.S. Magistrate Arthur Lattimer has ruled in the plaintiffs' favor. I understand that other federal courts have reached similar conclusions. Nevertheless, the reclamation procedures are still followed in parts of the country where they have not been forbidden by the courts.

My bill would amend the definition of overpayment in the Social Security Act to make it clear that Congress intends the procedural protections afforded to Social Security and SSI recipients who receive overpayments to be afforded to surviving spouses who receive the benefit payments of their deceased spouses. If adopted, my bill would require that prior to any collection action, Social Security must first ascertain whether the person who received the payment is a surviving spouse entitled to Social Security or SSI. If so, it would be limited to the methods for recovery of overpayment authorized in the Social Security Act and would be required to extend the waiver provisions of the Act to such persons. The surviving spouse would receive notice of the recovery action and have an opportunity to establish a repayment schedule or to seek waiver in cases of special hardship.

Mr. Chairman, Congress intended that all Social Security and SSI recipients who are overpaid by mistake should be afforded the fundamental rights of prior notice, a fair repayment schedule, and waiver in cases of special hardship. The Social Security Administration is using bureaucratic double-talk to get around that intent and deprive recently widowed recipients—a category of people who should be afforded, if anything, greater, not lesser, protections—of these fundamental rights. We need to put a stop to this outrageous abuse of the dignity and well-being of our senior citizens.

Chairman FORD. Thank you very much, Mr. Morrison.

I was talking to staff about your bill. We will take it into consideration when we go to markup.

Thank you for your testimony.

Mr. Pease?

Mr. PEASE. No questions.

Chairman FORD. Mr. Moore.

Mr. MOORE. No questions.

Chairman FORD. Thank you very much, Mr. Morrison.

Mr. MORRISON. Thank you, Mr. Chairman.

Chairman FORD. The committee will call its first panel, the National Caucus and Center on the Black Aged, Samuel Simmons, president; William Bechill, Supplemental Security Income Committee, Save Our Security Coalition; and John Harris, special assistant to the president of AFGE, and he is accompanied by Kris Kramer.

The Chair will recognize Mr. Simmons first.

STATEMENT OF SAMUEL J. SIMMONS, PRESIDENT, NATIONAL CAUCUS AND CENTER ON BLACK AGED, INC.

Mr. SIMMONS. Thank you, Congressman Ford, and members of the subcommittee.

I am accompanied by David Affeldt. Mr. Affeldt is the counsel to the National Caucus and Center on Black Aged.

We welcome this opportunity to testify on H.R. 5341, the 1984 supplemental security income equitable improvement and reform amendments.

At the outset, NCBA wishes to express its enthusiastic support for the legislation. We consider this bill to be reasonable, fiscally responsible and legislatively attainable.

We urge the subcommittee to report the bill out favorably and promptly. The bill would help considerably to make SSI more equitable and less administratively burdensome for low-income black and other SSI recipients.

SSI is obviously important to older blacks because blacks 65 years of age or older are more than three times as likely to be poor as elderly whites. In 1982, 38.2 percent of all aged blacks lived in poverty compared to 12.4 percent for older whites. About 811,000 older blacks were poor in 1982, the second highest number since poverty statistics were tabulated. But this is only one aspect of a very grim economic picture.

Another 284,000 were marginally poor. Their incomes barely exceeded the poverty thresholds—$4,626 for an individual or $5,836 for an elderly couple. In other words, it did not exceed this by more than 25 percent.

The net impact is that 51.6 percent of all aged blacks, 1.1 million in all, either lived in poverty or so close to it that they really could not appreciate the difference.

These figures, I want to express, do not include the "hidden" poor among blacks. For example, many aged blacks with incomes below the poverty line are not counted as poor because they live with others, oftentimes relatives, with sufficient income to bring them above the poverty levels.

Moreover, the poverty figures only focus on the noninstitutionalized population. But a total of about 1.3 million persons 65 or over are in nursing homes or other extended care facilities of which about 9 percent are blacks.

The vast majority of these individuals are in Medicaid facilities, which means, of course, that they have low income. If these persons were counted, the poverty figures would be even greater.

In June 1980, aged blacks constituted one out of every four SSI recipients. At the same time, 459,000 blacks 65 years or older received SSI. But there were 783,000 elderly poor blacks in 1980.

The number of aged blacks on SSI was actually higher than the 459,000 figure because 397,000 disabled and blind SSI recipients were 65 years of age or over. However, SSI does not reclassify these individuals when they become 65.

If one out of four of those persons is an aged black, this would boost the 459,000 figure by about 100,000 to approximately 560,000. This is more than 200,000 below the official poverty count for aged blacks.

I recognize your time is limited. Consequently, I shall be brief in commenting on the provisions of the bill.

NCBA supports the improvements in H.R. 5341, which have been incorporated in the 1984 Omnibus Budget and Reconciliation Act, H.R. 5364. We strongly favor the increase in countable SSI resource limits over a 5-year period from $1,500 to $2,000 for qualifing individuals and from $2,250 to $3,000 for eligible couples. This provision is long overdue because the Congress has not modernized the resource limits since the ceilings were established in 1972.

The provision to limit the amount of overpayment to the excess over the resource ceilings would help make the program more equitable as well as correct a very serious notch problem.

Currently, when an SSI recipient's resources exceeds the applicable $1,500 or $2,250 limits, the entire SSI check is considered an overpayment even though the accountable assets are just a few dollars above the ceiling. This problem is further compounded because the overpayment is usually not discovered until months later.

This can lead to substantial repayments which can financially cripple a low-income black who has to rely on SSI to make ends meet.

NCBA believes that the provision to limit the overpayment to the amount over the resource limit is a fair and well balanced approach. We also support the provision to limit the rate of overpayment recovery to $10 or 10 percent of SSI the recipient's income, whichever is greater, except where there is a fraud.

The Social Security Administration currently withholds the entire SSI check until the overpayment is recouped. This can be economically disastrous for people with little or no income.

Procedures are available for persons to reduce the amount of recoupment, but many SSI recipients are unaware of these remedies or are fearful about invoking them.

The SSI Equitable Improvements and Reform Amendments also include two much needed provisions for individuals in Medicaid facilities. First the $25 monthly personal needs allowance should be boosted to $35 and then adjusted to inflation. I wouldn't even be against the $75 proposed by an earlier witness.

This updating is also long overdue because the $25 standard has been in existence since SSI was enacted.

In other words, this translates to about 83 cents a day for an individual.

Second, the reduction in the regular SSI benefit to the personal needs allowance would occur after an individual has been in a Medicaid facility for the second full month. Currently, it is the first

full month. This has forced many persons to give up their independent living arrangements.

Moreover, it greatly increases the likelihood that they will remain in an institution because alternative living arrangements are not available.

This bill would provide SSI recipients, who would be placed in a nursing home temporarily, with greater latitude; and it can help reduce the incidents of premature or unnecessary institutionalization.

NCBA backs the two improvements which are designed to correct antifamily measures in existing law.

First, the bill seeks to remove some disincentives for family members to help relatives who are SSI recipients. For example, one measure would exclude gifts or inheritances from income in the month they were received when they cannot be converted to cash, such as furniture and will be excluded resources the following month.

Current law can work a severe hardship because these gifts or inheritances will cause a reduction in benefits, although they cannot be converted to cash.

Second, we support the measure to protect SSI recipients from the automatic one-third reduction in their initial SSI benefit when they live in the household of a low-income individual and receive in kind maintenance and support.

Ideally we would like to see this provision repealed completely because it penalizes elderly people who are helped by their children or grandchildren. In the long run, it may cost the Government more because some of these older persons may wind up in institutions at a much higher public cost than would be the case if they were maintained in relatives' home. The revised emergency advance procedure provides another needed reform for SSI.

The bill would increase the emergency advance payment from up to $100 a month to 3 months of SSI benefits. In today's world, $100 simply does not go far. We believe that 3 months of SSI payments for emergency are reasonable and justified because a Government bureaucracy often moves slowly.

NCBA enthusiastically supports the provision to improve notices to recipients regarding overpayments. The bill would require a simple and concise statement stating the following: First, the precise amount of the overpayment; second, the reasons for the alleged overpayment; third, the months in which the overpayment occurred; fourth, notice that the individual has a right for reconsideration of our payment; fifth, a statement that the person has a right to seek a waiver of the repayment; and sixth, notice that full benefits will continue until a decision is rendered if a waiver or reconsideration is sought.

This is basic information which an SSI recipient needs to weigh intelligently alternative courses of action. If this provision can be effectively implemented, it would be a great improvement.

The study on nonparticipation in SSI is also needed. This analysis can help to pinpoint dimensions of nonparticipation by potential eligible persons as well as the reasons for nonparticipation, limited benefits, lack of knowledge, the welfare stigma associated with SSI, excess resources or other factors.

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Additionally, the requirement for an ongoing SSI outreach effort can help to assure that persons who are eligible for SSI do, in fact. participate. Government should attempt to achieve savings in programs by capitalizing on individuals' lack of understanding or knowledge.

Mr. Chairman, I shall very briefly discuss one longer range recommendation which is absolutely essential for a wealthy, civilized and humane nation. I fully recognize that this proposal will not be enacted during this Congress because of the huge budget deficit and other political considerations. But NCBA considers this to be the No. 1 domestic objective for our Nation today.

The SSI income standards should be raised to a level to abolish poverty once and for all for the elderly. Older Americans who have worked for the progress we now enjoy should be able to live out their final years in dignity and self-respect. They should have enough money to eat properly and live decently.

A nation as rich and as wealthy as ours has the capacity to eliminate poverty for older Americans. What we need is the commitment. If we can send men to the Moon, grant $85,000 exemptions for U.S. citizens who work abroad and allow wealthy self-employed doctors to deduct $30,000 a year for their pensions, then we can clearly have the resources to abolish poverty for older Americans.

Currently, the maximum SSI payment is $314 a month for an aged individual with no countable income, and $472 for comparably situated eligible couples. These amounts are still below the poverty thresholds.

It may be necessary to boost the present income standards in increments; but our ultimate goal should be complete elimination of poverty as soon as possible.

We appreciate this opportunity to appear before you in behalf of this vital and much needed legislation.

Chairman FORD. Thank you very much, Mr. Simmons.

[The prepared statement follows:]

STATEMENT OF SAMUEL J. SIMMONS, PRESIDENT, NATIONAL CAUCUS AND CENTER ON BLACK AGED, INC.

Congressman Ford and Members of the Subcommittee on Public Assistance and Unemployment Compensation, the National Caucus and Center on Black Aged welcomes the opportunity to testify on H.R. 5341, the 1984 Supplemental Security Income Equitable Improvement and Reform Amendments. At the outset, NCBA wishes to express its enthusiastic support for this legislation.

We consider this bill to be reasonable, fiscally responsible, and legislatively attainable. We urge the Subcommittee to report out H.R. 5341 favorably and promptly.

H.R. 5341 would help considerably to make SSI more equitable and less administratively burdensome for low-income older Blacks and other aged SSI recipients. SSI is obviously important to older Blacks because Blacks 65 years or older are more than three times as likely to be poor as elderly Whites. In 1982, 38.2 percent of all aged Blacks lived in poverty, compared to 12.4 percent for older Whites.

About 811,000 older Blacks were poor in 1982, the second highest number since poverty statistics were tabulated. But, this is only one aspect of a very grim economic picture. Another 284,000 were marginally poor. Their incomes barely exceeded the poverty thresholds—$4,626 for an aged individual and $5,836 for an elderly couple—but not by more than 25 percent. The net impact is that 51.6 percent of all aged Blacks—1.1 million in all—either lived in poverty or so close to it that they really could not appreciate the difference.

These figures, I want to stress, do not include the "hidden" poor among aged Blacks. For example, many aged Blacks with income below the poverty line are not

counted as poor because they live with others—quite often relatives—with sufficient income to bring them above the poverty levels. Moreover, the poverty figures only focus on the noninstitutionalized population. But, about 1.3 million persons 65 or older are in nursing homes or other extended care facilities. The vast majority of these individuals are in Medicaid facilities, which means, of course, that they have low income. If these persons were counted, the poverty figures would be even greater.

In June 1980, aged Blacks constituted one out of every four SSI recipients. At that time 459,000 Blacks 65 or older received SSI. But, there were 783,000 elderly poor Blacks in 1980. The number of aged Blacks on SSI was actually higher than the 459,000 figure because 397,000 disabled and blind SSI recipients were 65 or older. However, SSI does not reclassify these individuals when they become 65 years old. If one out of four of these persons is an aged Black, this would boost the 459,000 figure by about 100,000 (397,000 × ¼=99,250), to approximately 560,000. This is more than 200,000 below the official poverty count for aged Blacks.

I recognize that your time is limited. Consequently, I shall be brief in commenting on the provisions in H.R. 5341.

SSI IMPROVEMENTS INCORPORATED IN RECONCILIATION BILL

NCBA supports the improvements in H.R. 5341, which have been incorporated in the 1984 Omnibus Budget and Reconciliation Act, H.R. 5364. We strongly favor the increase in the countable SSI resource limits over a five-year period, from $1,500 to $2,000 for qualifying individuals and from $2,250 to $3,000 for eligible couples. This provision is long overdue because the Congress has not modernized the resource limits since the ceilings were first established in 1972.

The provision to limit the amount of overpayment to the excess over the resource ceilings would help to make the program more equitable, as well as correct a very serious notch problem. Currently, when an SSI recipient's resources exceed the applicable $1,500 or $2,250 limits, the entire SSI check is considered an overpayment, even though the countable assets are just a few dollars above the ceilings. This problem is further compounded because the overpayment is usually not discovered until months later. This can lead to substantial repayments which can financially cripple a low-income aged Black who relies heavily on SSI to make ends meet. NCBA believes that the provision to limit the overpayment to the amount over the resource limit is a fair and well-balanced approach.

We also support the provision to limit the rate of overpayment recovery to $10 or 10 percent of the SSI recipient's income, whichever is greater, except when there is fraud. The Social Security Administration currently withholds the entire SSI check until the overpayment is recouped. This can be economically disastrous for someone with little or no other income. Procedures are available for persons to reduce the amount of recoupment, but many SSI recipients are unaware of these remedies or are fearful about invoking them.

IMPROVED PROTECTION FOR THE INSTITUTIONALIZED

The SSI Equitable Improvement and Reform Amendments also include two much-needed provisions for individuals in Medicaid facilities. First, the $25 monthly personal needs allowance would be boosted to $35 and then adjusted for inflation. This updating is also long overdue because the $25 standard has been in existence since SSI was enacted. The $25 personal needs allowance translates to about 83 cents a day, which certainly does not go very far today.

Second, the reduction in the regular SSI benefit to the personal needs allowance would occur after an individual has been in a Medicaid facility for the second full month. Currently, it is the first full month. This has forced many persons to give up their independent living arrangements. Moreover, it greatly increases the likelihood that they will remain in an institution because alternative living quarters may be unavailable. H.R. 5341 would provide SSI recipients, who must be placed in a nursing home temporarily, with greater latitude. And it can help reduce the incidence of premature or unnecessary institutionalization.

IMPROVEMENTS IN ANTI-FAMILY PROVISIONS

NCBA backs the two improvements which are designed to correct anti-family measures in existing law. First, the bill seeks to remove some disincentives for family members to help relatives who are SSI recipients. For example, one measure would exclude gifts or inheritances from income in the month received when they cannot be converted to cash, such as a piece of furniture. Current law can work a

severe hardship because these gifts or inheritances will cause a reduction in benefits, although they cannot be converted to cash and will be excluded resources the following month.

Second, we support the measure to protect SSI recipients from the automatic one-third reduction in their initial SSI benefit when they live in the household of low income individuals and receive in-kind maintenance and support. Ideally, we would like to see this provision repealed completely because it penalizes elderly people who are helped by their children or grandchildren. In the long run, it may cost the government more because some of these older persons may wind up in institutions at a much higher public cost than would be the case if they had been maintained in a relative's home.

EMERGENCY ADVANCED PAYMENTS

The revised emergency advance payment provides another needed reform for SSI. H.R. 5341 would increase the emergency advance payment from up to $100 a month to three months of SSI benefits. In today's world, $100 simply does not go very far, especially for an individual in an emergency situation. We believe that three months of SSI payments for an emergency are reasonable and justified because a government bureaucracy often moves slowly. But, a person must still eat and pay for shelter while necessary paperwork is processed.

IMPROVED NOTICES FOR OVERPAYMENT

NCBA enthusiastically supports the provision to improve notices to recipients regarding overpayments. H.R. 5341 would require a simple and concise statement containing the following information: (1) The precise amount of the overpayment; (2) The reasons for the alleged overpayment; (3) The months in which the overpayment occurred; (4) Notice that the individual has the right to obtain reconsideration of overpayment; (5) A statement that the person has the right to seek a waiver of the repayment; and (6) Notice that full benefits will continue until a decision is rendered if a waiver or reconsideration is sought.

This is basic information which an SSI recipient needs in order to weigh intelligently alternative courses of action. If this provision can be effectively implemented, it would be a great improvement over present notices.

MISCELLANEOUS

The study on non-participation in SSI is also needed. This analysis can help pinpoint the dimensions of non-participation by potentially eligible persons as well as the reasons for non-participation—the limited benefits, lack of knowledge, the welfare stigma associated with SSI, excess resources, or other factors.

Additionally, the requirement for an ongoing SSI outreach effort can help to assure that persons who are eligible for SSI do, in fact, participate. Government should not attempt to achieve savings in programs by capitalizing on people's lack of understanding or knowledge. Persons who are legitimately entitled to SSI should receive benefits.

ABOLISH POVERTY FOR THE ELDERLY

Mr. Chairman, I shall discuss very briefly one longer-range recommendation which is absolutely essential for a wealthy, civilized and humane nation. I fully recognize that this proposal will not be enacted during this Congress because of the huge budget deficit and other political considerations.

But, NCBA considers this to be the number one domestic objective for our nation today. The SSI income standards should be raised to a level to abolish poverty once and for all for the elderly. Older Americans who have worked for the progress we now enjoy should be able to live their final years in dignity and self respect. They should have enough money to eat properly, to live decently, and maybe to see a movie occasionally.

A nation as rich and wealthy as ours has the capacity to eliminate poverty for older Americans. What we need is the commitment. If we can send men to the moon, grant $85,000 exemptions for U.S. citizens who work abroad, and allow wealthy self-employed doctors to deduct $30,000 a year for their pensions, then we clearly have the resources to abolish poverty for older Americans.

Currently, the maximum SSI payment is $314 a month for an aged individual with no countable income and $472 for comparably situated eligible couples. These amounts are still below the poverty thresholds. It may be necessary to boost the

present income standards in increments. But, our ultimate goal should be the complete elimination of poverty as soon as possible.

CONCLUSION

In conclusion, Congressman Ford and Members of the Subcommittee, NCBA endorses H.R. 5341. It is a carefully crafted and well-balanced bill that would simplify and improve the administration of SSI. Equally important, H.R. 5341 would make SSI more equitable for those persons that the program is intended to serve—low-income aged, blind, and disabled individuals.

For these reasons, we reaffirm our support for this bill and urge that it be approved soon by the Subcommittee.

Chairman FORD. We will recognize now Mr. William Bechill, Save Our Security Coalition, with the Supplemental Security Income Committee.

STATEMENT OF WILLIAM BECHILL, SUPPLEMENTAL SECURITY INCOME COMMITTEE, SAVE OUR SECURITY COALITION [SOS]

Mr. BECHILL. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am William Bechill, appearing on behalf of the Save Our Security Coalition. Thank you very much for this opportunity to testify on H.R. 5341.

We are a coalition of over 200 organizations with approximately 40 million members. It is chaired by Dr. Arthur Fleming and Wilbur J. Cohen, both of whom are former Secretaries of the Health, Education, and Welfare.

I had the honor of serving as the first U.S. Commissioner on Aging in the Johnson administration and I, in that role, was very interested, of course, in the needs of older people in the areas of income, health, and social services.

My purpose here today is twofold. First it is SOS' position that the provisions of this bill are seriously needed. It is critical that the subcommittee act as soon as possible to ensure that H.R. 5341 will have a chance for passage in this session of the Congress.

Second, SOS urges the members of this subcommittee to take all necessary steps to protect the SSI provisions which have been included in the House's reconciliation bill.

H.R. 5341 does a great deal to alleviate some of the immediate problems in SSI. We support it wholeheartedly. But it does not provide a long-term solution to all of the problems of the Supplemental Security Income Program. For instance, it does not bring recipients up to the poverty level—a provision SOS considers absolutely critical and of the greatest priority.

The need for this bill stems mainly from three sources principally. The first is reflected in the statute: Despite the passage of 12 years, some of the original benefit and resources ceilings included in the original 1972 law still apply. There has been no change in these provisions.

Second, the program seems to have developed a meanness, a thickness of skin, which is simply unacceptable in a program intended to address the basic needs of low-income aged, blind and disabled Americans. This attitude has manifested itself in many ways. The most obvious have been in the areas of overpayment collection and evaluation of disability. Third, the current law creates gaps in coverage.

Mr. Chairman and members of the subcommittee, I want to turn to identifying and discussing certain sections of the bill in the balance of my comments.

First, I would like to support in behalf of the coalition the provisions relative to strengthening the asset limits. I thought the testimony of Ms. Ruth Howard was eloquent in terms of the need for this particular change in the law.

In evaluating the need for the increase, it is important to focus upon the types of large expenses which an elderly or disabled person might incur which the monthly SSI benefit could not possibly cover.

For example, the statute excludes the person's home from consideration as a resource. This has enabled many elderly and disabled SSI beneficiaries to continue to live in the homes they worked for and took years to pay for. But they retain the worries and cost of home ownership: how to pay the property taxes; how to pay the plumber; how to pay for basic upkeep once he or she is no longer able to do it; and how to pay to replace the roof.

Even without the costs of home ownership, many elderly and disabled SSI beneficiaries face other major bills not readily squeezed from the monthly SSI check.

Then I want to speak in support of section 203, the increase in the personal needs allowance. We do not believe that the $35 amount in H.R. 5341 is adequate. We see it as a definite improvement and at least some recognition that the $25 figure is simply too low.

We therefore endorse the provision. We urge the subcommittee, however, to amend the provision in the bill to require that States which currently supplement the $25 will be required to pass through the increase in the Federal benefit to the beneficiary.

Without such a passthrough requirement, it is possible that some States currently supplementing the $25 figure will simply reduce the amount of the person's supplement.

Third, the bill limits the amount which SSA, Social Security Administration, can take from a person's check in order to recover an overpayment, 10 percent of the individual's income, or $10, whichever is greater. SOS believes this provision is critical.

Both the Social Security Subcommittees of the Committee on Ways and Means and the House Select Committee on Aging have held hearings in recent years detailing the lengths to which SSA will go to intimidate SSI and title II old-age beneficiaries into believing they should forgo a request for waiver and instead agree to have 50 percent or 100 percent of their benefit withheld until the alleged overpayment has been recovered.

Often this is done, the coalition believes, without fully informing SSI beneficiaries and old-age insurance beneficiaries of their statutory rights in these situations.

SSA's approach to SSI beneficiaries has been particularly unfair. Virtually all notices of overpayment from the Social Security Administration inform the beneficiary that SSA intends to withhold 100 percent of the person's benefit for as many months as needed to recover the alleged overpayment.

The recipient who receives this notice is often an old person, and understandably becomes very upset that they will be without a benefit, often their sole source of income for a number of months.

When the older persons calls the Social Security Administration local office, they are often offered a deal such as withholding only 50 percent of the benefit and the older person gratefully accepts, often unaware of their right under the law to seek a waiver of the full amount, or, in some instances, the older person is informed that he or she can seek a waiver, but it is denied and the full 100 percent will be withheld.

The Save Our Security Coalition believes these current practices are intimidating. They raise serious questions of both legality and morality.

H.R. 5341 provides a solution for these types of problems and, in so doing, restores a measure of human decency and fairness to the program.

I want to mention one other recommendation about which the coalition has strong feelings about, although we have strong feelings about all provisions in this act, but that is the provisions in sections 701 and 702 having to do with outreach and study of nonparticipants.

We are acutely aware of the need to improve and expand present efforts of the Social Security Administration in outreach. SOS believes there is a great deal which can be done to locate the aged, blind, and disabled persons who are eligible for SSI but who are not aware of the program.

Section 702 will make permanent the Secretary's outreach obligations under the 1983 amendments while expanding the language's coverage to include blind and disabled persons.

The bill also mandates development of special outreach programs to address the unique circumstances of disabled children who may be eligible for SSI. Given the apparent underuse of this program by disabled children and their families, we feel this is critical.

As a related matter, SOS endorses section 701 which requires a comprehensive study to identify who the people are who are eligible but not receiving SSI benefits. This study is especially important, it seems to me, to any future congressional action in the SSI program.

Before concluding, I want to again indicate our support for the provisions already included in H.R. 5364, the Omnibus Budget and Reconciliation Act of 1984.

In summary, then, Mr. Chairman, this bill provides very modest protections which are needed immediately.

We call to the subcommittee's attention, Mr. Chairman, the additional need for an ambitious and broadly defined reform legislation in the SSI program. Such legislation should first increase the SSI benefit level up to at least the poverty level; mandate a comprehensive outreach program; eliminate the one-third reduction for living in a household of another; and further increase the assets exclusion and index the ceiling.

Thank you very much.

Chairman FORD. Thank you, Mr. Bechill.

[The prepared statement and attachment follow:]

STATEMENT OF WILLIAM BECHILL, ON BEHALF OF THE SAVE OUR SECURITY COALITION [SOS]

I am William Bechill, appearing on behalf of the Save Our Security coalition. Thank you for providing SOS with this opportunity to testify on H.R. 5341, "The SSI Equitable Improvements and Reform Amendments of 1984."

SOS is a coalition of over 200 organizations with more than 40 million members. It is chaired by Dr. Arthur S. Flemming and Wilbur J. Cohen, both former Secretaries of Health, Education and Welfare. Neither was able to be here today, but both wholeheartedly support the importance of this legislation.

I served as the first U.S. Commissioner on Aging. In that role, I was acutely aware of the need for ongoing improvement of the income maintenance and health programs available to aged, blind and disabled persons.

My purpose here today is twofold. First, it is SOS's position that the provisions of H.R. 5341 are seriously needed. It is critical that this Subcommittee act as soon as possible to ensure that H.R. 5341 will have a chance for passage in this session of the Congress. In that context, we offer these suggestions about modifications which should be made to improve the bill.

Second, SOS urges the members of this Subcommittee to take all necessary steps to protect the SSI provisions which have been included in the House's Reconciliation bill.

H.R. 5341 does a great deal to alleviate some of the immediate problems in SSI. We support it wholeheartedly. But, it does not provide a long-term solution to all of the problems of the Supplemental Security Income program. For instance, it does not bring recipients up to the poverty level—a provision SOS considers absolutely critical and of the greatest priority.

The need for this bill stems mainly from three sources. The first is reflected in the statute: despite the passage of twelve years, some of the original benefit and resources ceilings included in the original 1972 law still apply. There has been no change in these provisions. Second, the program has developed a meanness, a thickness of skin, which is simply unacceptable in a program intended to address the basic needs of low-income aged, blind and disabled Americans. This attitude has manifested itself in many ways. The most obvious have been in the areas of overpayment collection and evaluation of disability. However, as the provisions of this bill reflect, the problems have been even more pervasive.

Third, the current SSI statute creates gaps in coverage which result in major hardships for many SSI individuals and their families. A brief discussion of some of the sections of the bill will illustrate some of the dimensions of these three problems.

A. PROVISIONS WITH DOLLAR FIGURES NOT CHANGED SINCE THE INCEPTION OF THE PROGRAM

Section 204—Increase the asset limits

The bill increases the asset limits from $1,500 to $2,000 for an individual and from $2,250 to $3,000 for a couple. The current asset limits have been in the statute since its inception. They are simply inadequate to provide an elderly person with any measure of peace of mind. In evaluating the need for an increase, it is important to focus upon the types of large expenses which an elderly or disabled person might incur which the monthly SSI benefit could not possibly cover. For example, the statute excludes the person's home from consideration as a resource. This has enabled many elderly and disabled SSI recipients to continue to live in the homes they worked for years to pay for. But, they also retain all the worries and costs of home ownership: how to pay the property taxes, how to pay the plumber, how to pay for basic upkeep once he or she is no longer able to do it, and how to pay to replace the roof.

Even without the costs of home ownership, many elderly and disabled SSI recipients face other major bills not readily squeezed from the monthly SSI check. For example, both homeowners and many renters face extraordinarily high utility bills (whether for heat in the North or air cooling in the South) each year which far exceed any energy assistance they may receive. Other SSI recipients face health costs including transportation and home health care services not covered by Medicaid or Medicare.

It is in the context of these major types of costs as well as others which are less expensive but equally troubling that the adequacy of the current $1,500/$2,250 limits should be evaluated. Our assessment is that these ceilings are far too low.

While would like to see the ceiling increased higher than those included in H.R. 5341 and indexed, we believe that Section 204 (or the even more modest provision in

the Reconciliation package) is an improvement which is critically needed and long overdue.

Section 203—Increase in the personal needs allowance.

The bill increases the personal needs allowance for SSI recipients living in institutions which receive Medicaid reimbursement from $25 to $35 and indexes the benefit in future years. The personal needs allowance has been set at $25 since the inception of the program in 1974.

While we do not believe that the $35 amount in H.R. 5341 is adequate, we see it as a definite improvement and at least some recognition that the $25 figure is simply too low. We therefore endorse the provision. However, we urge the Subcommittee to amend the provision to require that states which currently supplement the $25 will be required to pass-through the increase in the Federal benefit to the beneficiary. Without such a pass-through requirement, it is possible that some states currently supplementing the $25 figure will simply reduce the amount of the person's supplement. This bill is already modest in its provisions and resulting costs. It is critical that all of the benefits of the bill reach those for whom they are intended. In this case, without a pass-through requirement, the states, not the SSI recipients, could be the unintended beneficiaries.

B. PROVISIONS NEEDED TO CURE ADMINISTRATIVE ACTIONS RESULTING IN UNFAIR TREATMENT OF APPLICANTS AND RECIPIENTS AND TO ASSURE THAT ALL WHO ARE ELIGIBLE ARE ENCOURAGED TO APPLY FOR AND RECEIVE BENEFITS

The bulk of this bill adresses numerous problems in the SSI program which have resulted in unfair action by SSA staff pursuant to program-wide directives. Because many of these problems have been created administratively, they could be cured administratively. It is a reflection of the depth of the problems that Congressional action is needed to resolve them.

Very briefly, these provisions are:

Section 501—limit on rate of recovery of overpayments

The bill limits the amount which SSA can take from a person's check in order to recover an overpayment to 10% of the person's income or $10, whichever is greater. SOS believes this provision is critical. Both the Social Subcommittee of the Committees on Ways and Means and the House Select Committee on Aging have held hearings in recent years detailing the lengths to which SSA will go to intimidate SSI and Title II Old Age beneficiaries into believing they should forgo a request for waiver and instead agree to have 50% or 100% of their benefit withheld until the alleged overpayment has been recovered. Often this has been done, SOS believes, without fully informing SSI recipients and Old Age beneficiaries of their statutory rights in these situations.

SSA's approach to SSI recipients has been particularly unfair. Virtually all notices of overpayment from SSA inform the recipient that SSA intends to withhold 100% of the person's benefit for as many months as needed to recover the alleged overpayment. The recipient who receives this notice is often an older person and, understandably, becomes very upset that they will be without a benefit, often their sole source of income, for a number of months.

When the older person calls SSA, they are often offered a deal, such as withholding only 50% of the benefit, and the older person gratefully accepts, often unaware of their right to seek a waiver of the full amount. Or, in some instances, the older person is informed that he or she can seek a waiver, but if it is denied, the full 100% will be withheld. SOS believes that SSA's current practices in this regard are intimidating. They raise serious questions of both legality and morality. H.R. 5341 provides a solution for these types of problems and, in so doing, restores a measure of human decency and fairness to the program. SSA will be repaid (where a waiver is not granted), but at a rate that permits the SSI recipient to survive while recovery is taking place.

SOS believes that the additional language which states that nothing in the limit is intended to dilute the protections of the waiver provision is critical. In recent years, waivers have become virtually extinct at SSA, despite the statutory mandate that they be provided.

Section 506—improvement of overpayment notices

Further, the bill requires SSA to provide, in simple language, notices which provide the recipient with the information they need to properly assess the accuracy of SSA's claim that there has been an overpayment. SOS endorses this provision. Basic

due process considerations and fairness mandate that sufficient information be provided.

Sections 702 and 701—outreach and study of nonparticipants

SOS is acutely aware of the need to improve and expand SSA's meager efforts at outreach. SOS believes that there is a great deal which can be done to locate the aged, blind and disabled Americans who are eligible for SSI but who are not aware of the program. Section 702 will make permanent the Secretary's outreach obligations under the 1983 Amendments, while expanding the language's coverage to blind and disabled persons. It also requires the Secretary to actually work with other Federal, state and municipal agencies as well as private groups to develop mechanisms for identifying potential SSI recipients.

The bill also mandates development of special outreach programs to address the unique circumstances of disabled children who may be eligible for SSI. Given the apparent underutilization of this program by disabled children and their families, this is critical.

As a related matter, SOS endorses Section 701, which requires comprehensive study to identify who the people are who are eligible but not receiving SSI benefits. This study is especially important to any future Congressional action in the SSI program.

Sections 703 and 704—improve assistance and notices

These two provisions address two basic problems with SSA. First, SSA often fails to consider the physical or mental limitations of the population it serves. This manifests itself in odd ways, such as placing incredible expectations on a marginally retarded person that he should have known that SSA was paying him too much. Or failing to fully assist a mentally ill person in establishing his entitlement. The bill targets improvements in SSA's treatment of the handicapped and mentally impaired. SOS supports the provision, but recommends that the provision also specifically address the problems created by language barriers, particularly in areas with high concentrations of Hispanic SSI applicants and recipients.

The second provision, section 704, addresses a striking problem with SSA's notices: they are written so that no one (or very few) can really understand them. The bill requires SSA to improve the clarity and readability of its SSI notices by contracting with readability experts to assure that the notices can be understood by the average SSI recipient.

Unfortunately, the bill provides a loophole which will supply SSA's excuse for not complying with the provision. The Secretary will be required to contract with such experts "except to the extent that it is affirmatively determined . . . not to be feasible." SOS recommends that this phrase be deleted. If there is a concern that the Secretary may find it difficult to subject all SSI notices to such review, within the 12 months time frame, we recommend that the bill accommodate this concern by permitting the Secretary to contract for the review of notices on a priority basis, focusing first on notices which reduce, suspend, terminate or deny SSI benefits, create an overpayment, or deny an appeal, should be reviewed before other potentially less damaging notices.

C. PROVISIONS NEEDED TO FILL CURRENT GAPS

Section 403—creation of option to retain Medicaid

The statute provides that where SSA believes that an SSI applicant or recipient might be eligible for another type of benefit, SSA must require the person to apply for and obtain the other benefit. On its face, this seems like a reasonable requirement. However, when applied, it often results in great personal suffering. This is because the SSI recipient who is disabled will often be forced to apply for and obtain another benefit which, while perhaps a few dollars higher than the SSI benefit level does not provide any health care coverage because it is not based upon disability. While there are a few different situations where this will occur, the following hypothetical example will illustrate the problem.

Mrs. A. was 55 years old and widowed when she became disabled. She applied for both disabled widow's OASDI benefits and SSI benefits. While she was found to be eligible for SSI disability benefits, she was denied widow's disability benefits. As a result of receiving SSI, Mrs. A. also became eligible to receive Medicaid which she very much needed to assist in covering her health care costs. When Mrs. A. became 60 years old, SSA informed her that she was required to apply for early retirement/widows benefits on her deceased husband's account. Mrs. A. complied. She was awarded $340 monthly.

As this is $6 more than the SSI benefit level ($314) plus the $20 unearned income disregard, one would expect that Mrs. A. was at least minimally better off. However, the exact opposite was true. When Mrs. A. lost her SSI at age 60, she lost all health care coverage. She will not be eligible for Medicare until she is 65. This woman finds herself suddenly with $6 but no health care benefits. H.R. 5341 addresses this problem by providing people like Mrs. A. with an option, permitting her to retain SSI eligibility and, as a result, Medicaid coverage.

We suggest that the current problem is the unintended consequence of the interplay of eligibility requirements among the various income maintenance and health benefit programs. SOS urges the Congress to eliminate this inequity.

Section 402—posthumous payment of retroactive SSI benefit

Right now, SSA is saving small sums of money annually because it fails to pay out the SSI benefit until after a terminally ill SSI applicant dies. As the Statute is currently written, the only person who is eligible to receive the SSI payment of a deceased person is a spouse who is eligible for SSI. As a practical matter, among younger terminally ill applicants, this means that SSA simply swallows up the benefits if the person dies before he/she is paid. This is because few young disabled SSI applicants with terminal illnesses are married and even fewer are married to someone who is also eligible to receive SSI.

H.R. 5341 provides a rational, organized mechanism for addressing this problem which we endorse. We hope that one result of this legislation will be to encourage SSA to expedite both its excessively slow adjudicative processes and its issuance of award checks where a favorable decision has been issued.

Sections 601 and 602—extension of benefits to Guam and Virgin Islands

The bill provides SSI benefits for the first time to low-income aged, blind and disabled individuals residing in Guam and the Virgin Islands. The bill also requires HHS to conduct a study regarding the feasibility of extending the SSI program to Puerto Rico and the related costs.

SOS applauds the decision to extend benefits to Guam and the Virgin Islands but sees no distinction between the residents of Guam and the Virgin Islands and those in Puerto Rico. As a result, SOS urges this Subcommittee to extend SSI benefits to aged, blind and disabled residents of Puerto Rico at this time as well.

Section 102—exclusion from income of emergency assistance from nonprofits

This provision makes permanent the requirement in the 1983 Amendments that in-kind emergency assistance provided by non-profit organizations not be counted as income for SSI purposes. SOS supports this provision but urges the Subcommittee to review SSA's practices under the 1983 Amendments.

Despite the fact that the states determine whether the non-profit agency provides assistance based upon need, SSA never issued regulations which would instruct these states and SSA's own staff regarding how to apply the provision. This resulted in great confusion. It is our understanding that SSA did not issue regulations because the Office of Management and Budget will not permit regulations to be issued on any provision which contains a "sunset" date. This policy is particularly unfortunate in a program such as SSI where a new provision will often be passed on a temporary basis. It not only creates confusion in implementing the statutory language but the resulting confusion will often make it difficult to assess the efficacy of the provision. SOS urges the Subcommittee to review OMB's policy in this regard.

The Provision in H.R. 5364, the Omnibus Budget and Reconciliation Act of 1984.

H.R. 5364 contains five provisions which are either identical to or similar to provisions in H.R. 5341. These provisions include:

(1) An increase in the SSI resource limits over a five year period from $1,500 to $2,250 for an individual and from $2,250 to $3,000 for a couple.

(2) A limit in the rate of overpayment recovery. The sooner this provision is enacted, the better for SSI recipients.

(3) A limit in the amount of an overpayment to the amount that the person's resource exceeds the limit. All too frequently, we learn of the SSI recipient whose assets, for instance in a bank account, creep over the $1,500 limit due to the accumulation of interest, often without their knowledge. After SSA discovers this, often six months to a year later, when the person's account is now at $1,600, SSA will tell the person they have been overpaid six month's benefits (about $1,900) rather than

the $100 the person actually had. Under the bill, the overpayment would be $100.[1] This is fair and is consistent with the underlying purpose of the SSI statute.

(4) The exclusion of Retroactive SSI or AOSDI checks from resources for a year. SOS supports this provision. By exempting the retroactive award for 12 months, the bill will alleviate the current situation where a person who receives a back award or benefit has to spend them immediately or lose SSI eligibility. This is unfair: if the person had been paid monthly, there would not have been the back award and the prospect of termination as a result.

(5) The emergency assistance provision in the 1983 Amendments is made permanent. SOS supports this provision as we indicated earlier.

H.R. 5364 also contains one other SSI provision, which permits the Internal Revenue Service to release information about a person's unearned income to a Federal or state agency which administers a Federally funded needs-based program. SOS stresses the importance of retaining the verification requirements included in the House bill. These requirements serve as the mechanism that will assure that Federal or state agencies will not succumb to the temptation to rely solely upon the IRS data in order to suspend, reduce, terminate or deny welfare benefits.

CONCLUSION

This bill provides very modest protections which are urgently needed immediately.

We call to the Subcommittee's attention, however, the additional need for ambitious, broadly-defined reform legislation in the SSI program. Such legislation should (1) increase the SSI benefit level up to at least the poverty level; (2) mandate a comprehensive outreach program; (3) eliminate the one-third reduction for living in the household of another; and (4) further increase the assets exclusion and index the ceiling. In a pamphlet currently being published by the SOS Education Fund, "Supplemental Security Income: The Promise and the Performance," the Fund details numerous other major improvements which are needed. We have attached a copy of that pamphlet to this testimony.

At this time, we urge you to recognize that H.R. 5341 addresses immediate needs and that its passage is critical, but that there will continue to be additional legislative work needed to make the major reforms required if this program is to ever assume its intended role of providing income security for low-income elderly, blind and disabled Americans.

Thank you for providing SOS with this opportunity to testify.

SUPPLEMENTAL SECURITY INCOME

THE PROMISE AND THE PERFORMANCE

What is Supplemental Security Income?

This booklet has been written for those who work in the area of supplemental Security Income, leadership of organizations, agencies and boards with interest in, or responsibility for administering Supplemental Security Income, as well as public policy makers and those interested in a more equitable and humane attitude toward those in our society who are poor, disabled or elderly.

In 1972 Congress enacted the Supplemental Security Income (SSI) Act, in an effort to place an economic floor under the nation's aged, blind and disabled.

The purpose of SSI—the first federally guaranteed annual income program in history—was to move in the direction of equity. It established uniform national standards with respect to who was eligible for these benefits, and how much these beneficiaries would receive.

Prior to passage of this legislation, many people had been served by such State programs as Old Age Assistance, Aid to the Blind, and Aid to the Permanently Disabled. But those State programs were, at best, a patchwork affair; there was a hodge-podge of eligibility requirements and benefit levels, varying widely from State to State.

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[1] We believe that this is preferable to the approach taken in H.R. 5341, Section 201, which would add the amount that the person was over the limint in each month. This would penalize the SSI recipient by creating the fiction that he/she has income he/she does not have. For example, if the person's account was over by $4 in 1/84, $5 in 2/84, $6 in 3/84 and $7 in 4/84, under this approach the overpayment would be $22 ($4 + $6 + $7) even though the SSI recipient was never more than $7 over the limit. However, while deficient and not as sound as the provision in H.R. 5364, it is preferable to current practice.

The new program became effective January 1, 1974. Needy aged, blind and disabled persons already receiving State support benefits as of December 1973 were transferred to the Federal Supplemental Security Income rolls, and benefits were made available for the first time to those who had been unable to qualify previously for State benefits.

Congress wanted to make certain that those already on State welfare rolls would not suffer adversely from the changeover to a Federal system. So it mandated that those States whose benefit levels had been higher than the new Federal benefits had to supplement the Federal payment, thus keeping those beneficiaries at least at the same income level on which they had been relying in the past. At the same time, the law gave all states the option of supplementing Federal benefits, if the State so desired, for new beneficiaries.

In general, the Federal requirements were less stringent, in terms of the amount of assets an individual or couple could have and still be eligible for benefits, than were the various State limitations. But the new Federal guidelines were, and still are, restrictive.

It is important to note that SSI benefit levels represent a maximum amount, and are reduced by all but the first $20 a month of unearned income (Social Security benefits, interest, gifts, etc.), the first $65 a month in earned income, and one-half of any earned income over $65 a month. The SSI benefit is also reduced by one-third for recipients who live in someone's household—this one-third reduction reflecting what the Government has determined is the presumed value of food and shelter provided to the beneficiary.

Although SSI is administered by the Social Security Administration, it is not funded from the FICA (Social Security/Medicare taxes) payroll contributions made by employees and employers. All of the funding for the Supplemental Security Income benefit comes from general Federal revenue. Unlike Social Security, eligibility for SSI does not depend upon how long a person has worked.

Are the promises of SSI being kept?

Ten years after the inception of Supplemental Security Income program, it's fair to ask whether it is living up to expectations. The answer, in a word, is "No."

A look at the various aspects of SSI explain why.

Inadequate coverage

When SSI was enacted, it was projected that some 6.7 million people were eligible, and it was estimated that, of those, 6 million would participate in the program.

The following table illustrates that the number actually receiving benefits still remains relatively small and has declined considerably since 1979.

Month and year	Total	Aged	Blind	Disabled
January 1974	3,213,632	1,865,109	72,390	1,278,133
December 1979	4,149,575	1,871,716	77,250	2,200,609
September 1983	3,898,256	1,527,500	78,820	2,291,936

Obviously there has been a dramatic and consistent shortfall between the number deemed to be eligible and the number actually on the SSI rolls. The question is "Why?"

Perhaps the most important is that a large number of people have never even heard of the program.

In fact, the Social Security Administration commissioned a study by Urban Systems Research & Engineering, Inc., of Massachusetts, published in May 1983, which found that 45 percent of eligible nonrecipients said they had never heard of the SSI program.

Only 21 percent of those eligible, but not receiving benefits, were men, a staggering 79 percent were women.

Some persons have become ineligible because their States have not adjusted their supplementary payments to compensate for inflation. As Social Security payments increased from cost-of-living increases, they lost their eligibility for SSI.

Some potential beneficiaries decided that there is a stigma attached to receiving the benefits, regardless of the fact that this program is a right of all eligible Americans.

Some of the poorest older and disabled persons have died, and Social Security cash benefits for newer, younger beneficiaries have tended to be higher.

In other words, there are millions of Americans—a disproportionate number of them being women who are living in loneliness and poverty—for whom this program was intended and who are not being served by it.

A guaranteed income—below the poverty level

It's true that under SSI Congress, for the first time in history, intended to establish a level of guaranteed income for the poorest of the poor who, through no fault of their own, are unable to get out of poverty. The problem was, and still is, that SSI benefit levels were set well below the Government's official poverty level. The proverty guideline indicates the level the Government considers barely essential for the purchase of food, clothing, shelter and some medical benefits. In 1974, the Federal SSI payment was equal to 70 percent of the poverty guidelines for an individual and 80 percent for a couple.

Today, the Federal SSI benefit is 72 percent of the poverty level for individuals, and 85 percent for couples.

Even the State supplemental payments on top of the Federal SSI benefits have not significantly changed this benefit-poverty ratio.

In only three States (Alaska, California and Massachusetts) does the combined Federal-State benefit exceed the poverty level for individuals, and in only ten States (Alaska, California, Massachusetts, Wisconsin, Nebraska, Nevada, Rhode Island, Vermont, Oklahoma and Colorado) do the benefits exceed the poverty standards for couples.

In 36 States and the District of Columbia, a person receiving a Federal or State SSI payment is automatically eligible ("categorically eligible") for Medicaid. Even a small cash payment, then, is worth applying for in most cases since it carries with it significant protection against the cost of medical care.

Therefore, someone who does not participate in SSI automatically loses Medicaid coverage as well, in other words, is doubly penalized.

State supplements—what you get depends on where you live

How well the SSI program serves the needy aged, blind and disabled has to be considered in light of the Federal "floor" of SSI payment amounts, and the State "supplementation" of the Federal payment. The SSI program has two types of supplementation, one "mandatory" and one "optional."

States were required to supplement Federal SSI benefits for some participants (mandatory), and all States were permitted to supplement the Federal SSI benefits for other participants if they wished (optional), without the income being counted in determining eligibility for the Federal SSI payment amount. This had two effects: (1) beneficiaries in a very few States were brought to or near the poverty level and (2) it institutionalized a variation in levels of assistance to individuals, depending upon where a person lives.

With the passage of Public Law 93-358 (effective July 1979) automatic cost-of-living increases in Federal SSI benefits became coordinated with cost-of-living increases in OASDI benefits to maintain the income-support level consistent with the rate of inflation. Because those cost-of-living increases resulted in higher income for some SSI recipients, however, the State's obligation to provide mandatory supplementation was either reduced or eliminated. Also, some States elected not to increase the prior optional supplementary payment levels and did not pass along the Federal SSI cost-of-living increases. The State payment amount was thus reduced by the amount of the Federal SSI increase. To encourage States to raise their payment levels as the Federal level increased, Public Law 94-585 was enacted in 1976 requiring States to pass along ("pass through") cost-of-living increases in Federal SSI benefits payable after June 1977.

The significance of the supplemental program is that it was designed in part to ensure that no one lost from conversion to the Federal program in 1974 and it was anticipated that the States would ensure that additional needs of SSI eligibles were met out of State funds. Since the States were required to maintain the higher level difference between the States and Federal income levels, that part of the program has been carried out, but as the Federal payment amount increased and the number of those transferred from State to Federal programs declined, the mandatory program is no longer significant. The optional part of the program has varied with the States' decisions.

With passage of P.L. 98-21 (1983), the supplementation of SSI by the States will further erode. The States will be permitted to maintain either their December 1976 or March 1983 supplementary income levels for "pass through" of SSI cost-of-living increases. With regard to the July 1983 SSI increase ($20 for an individual, $30 for a couple), the States must only pass through the portion of that increase that would

have been given as a cost-of-living adjustment (COLA) if the COLA had not been delayed until January 1984.

To put the supplementation aspects of SSI into perspective, payments are subject to variables on a State by State basis and will fluctuate as the mood of the people changes and as the States' fiscal resources for the needy compete with other needs. With cutbacks in Federal funds, States priorities may shift; the Federal SSI benefit will provide the only constant floor.

[See tables below:]

STATE SSI SUPPLEMENTS FOR AGED INDIVIDUALS WITHOUT COUNTABLE INCOME LIVING INDEPENDENTLY*

State	July 1975	July 1980	January 1984	Percent increase (constant dollars) [1]	
				1980–84	1975–84
Alaska [2]	142	235	252	−14	−14
California	101	164	163	−19	−14
Colorado	27	55	58	−14	15
Connecticut [3]	NA	NA	NA	.....	.....
District of Columbia	0	15	15	−18	.....
Hawaii	17	15	5	−73	−84
Idaho	63	74	88	−3	−25
Illinois [3]	NA	NA	NA	.....	.....
Maine	10	10	10	−19	−47
Massachusetts	111	137	128	−24	−38
Michigan	12	24	24	−18	7
Minnesota [4]	31	34	35	−16	−40
Nebraska	67	75	74	−20	−41
Nevada	55	47	36	−38	−65
New Hampshire	12	46	27	−52	20
New Jersey	24	23	29	3	36
New York	61	63	61	−21	−47
Oklahoma	27	79	69	−29	36
Oregon	17	12	2	−86	−94
Pennsylvania	20	32	32	−19	−15
Rhode Island	31	42	52	−1	−10
South Dakota	0	15	15	−18	.....
Utah	0	10	10	−19	.....
Vermont [5]	29	41	50	−1	−8
Washington [6]	36	43	38	−28	−44
Wisconsin	70	100	100	19	−24
Wyoming	0	20	20	−18	.....
Median	27	42	36	−19	−20

*"Background Material and Data Programs Within the Jurisdiction of the Ways and Means Committee" p. 401 and 402. Dated February 21, 1984 (98–22).

[1] The percentage decrease in constant dollars were computed by inflating July 1975 and July 1980 to January 1984 by the CPI U price index. A projection of 304 was assumed for January 1984.

[2] Less if shelter costs less than $35 monthly.

[3] State decides benefit on a case-by-case basis. It is impossible to come up with a valid average of the supplements paid by the State.

[4] Payment level for Hennepin County. State has 10 geographic payment levels.

[5] State has two geographic payment levels—highest levels are shown in table. Sum paid only in Chittenden County.

[6] State has two geographic payment levels—highest levels are shown in table. Sum paid in King, Pierce, Kitsap, Snohomish, and Thurston Counties.

STATE SSI SUPPLEMENTS FOR AGED COUPLES WITHOUT COUNTABLE INCOME LIVING INDEPENDENTLY*

State	July 1975	July 1980	January 1984	Percent increase (constant dollars) [1]	
				1980–84	1975–84
Alabama	9	0	0	.....	−100
Alaska [2]	183	338	358	−14	3
California	251	389	414	−13	−12

STATE SSI SUPPLEMENTS FOR AGED COUPLES WITHOUT COUNTABLE INCOME LIVING INDEPENDENTLY*—Continued

State	July 1975	July 1980	January 1984	Percent increase (constant dollars)[1]	
				1980–84	1975–84
Colorado	133	229	272	−3	9
Connecticut [2]	NA	NA	NA		
District of Columbia	0	30	30	−18	
Hawaii	28	24	9	−69	−83
Idaho	49	80	58	−41	−37
Illinois [3]	NA	NA	NA		
Maine	15	15	15	−18	−47
Massachusetts	173	214	201	−23	−38
Michigan	18	36	36	−19	7
Minnesota [4]	38	44	66	22	−7
Nebraska	67	114	108	−23	−14
Nevada	106	90	74	−33	−63
New Hampshire	0	42	21	−59	
New Jersey	13	12	23	56	−5
New York	76	79	76	−22	−47
Oklahoma	54	158	144	−26	42
Oregon	17	10	0	−100	−100
Pennsylvania	30	49	49	−18	−13
Rhode Island	59	79	98	1	−11
South Dakota	0	15	15	−18	
Utah	0	20	20	−18	
Vermont [5]	61	76	91	−2	−20
Washington [6]	40	44	36	−33	−52
Wisconsin	105	161	161	−18	−18
Wyoming	0	40	40	−19	
Median	40	47	53	−18	−16

* Background Material and Data on Programs Within the Jurisdiction of the Ways and Means Committee, p. 401 and 402. Dated February 21, 1984. (98–22)

[1] The percentage decrease in constant dollars were computed by inflating July 1975 and July 1980 to January 1984 by the CPI–U price index. A projection of 304 was assumed for January 1984.

[2] Less if shelter costs less than $35 monthly.

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[6] State has two geographic payment levels—highest levels are shown in table. Sum paid in King, Pierce, Kitsap, Snohomish, and Thurston Counties.

Eligibility requirements

To be eligible for SSI, individuals and couples have to meet two very restrictive tests-assets and income.

The assets test

To be eligible for SSI benefits, the law originally set limits on the value of a home, household goods and insurance that a person could own and then established that other assets (real estate, personal property, savings, checking accounts, stocks and bonds) could not exceed $1,500 for an individual and $2,250 for a couple. That $1,500 figure remains unchanged today, a decade later, despite the fact that the Consumer Price Index has skyrocketed nearly 120 percent.

The original law excluded the first $25,000 of the fair-market value of a home; the first $1,500 worth of household goods; the first $1,500 in life insurance and the first $1,200 of the value of an automobile. There have been some modifications made over the years. A person's home is now totally excluded, regardless of its value. The person can have up to $2,000 in household goods and a burial plot and burial insurance of no more than $1,500. In some cases, a car will be totally excluded; in others it will be excluded up to $4,500.

The income provision

In determining eligibility for SSI, and the amount of the actual SSI payment, deductions are made to reflect both earned and unearned income.

The first $20 a month of unearned income (such as Social Security benefits, workers' compensation, veterans' benefits, gifts, annuities, rent and interest) is excluded; the balance of any such unearned income is deducted from the primary SSI benefit. The first $65 a month of earned income is also excluded; any excess above that level reduces benefits by 50 cents of each dollar of earnings.

These levels were set in the legislation which became effective in 1974. Ten years later, despite rampant inflation, they remain unchanged.

Other limitations

(1) If SSI beneficiaries are unable to maintain their own households and are forced to live with family or friends, their primary SSI benefit is reduced by one-third, on the theory that this reflects the value of the food and shelter provided to them. This reduction in benefit takes place, in many cases, even if the SSI Beneficiaries are contributing a portion of the benefits to household upkeep. Not only does this harm the recipient, but also it places a financial strain on the family, in some cases discouraging them from continuing to provide a home for their relatives.

(2) If beneficiaries are confined to a nursing home or other facility eligible for Medicaid inpatient reimbursement, their board and lodging after the first month of institutionalization is covered by Medicaid payments, their benefits are reduced to $25 a month in order for the recipient to buy "incidentals" while in the facility. This figure has not been changed in the ten-year history of the program. Nor does it take into account the fact that many recipients consider their stay temporary and want to continue to maintain their previous independent living arrangements. Usually the abrupt reduction in SSI benefits to $25 a month makes this impossible. Unable to meet ongoing rent and utility payments, many recipients are thus forced to remain in the facility for lack of an alternative. This is not only socially irresponsible, but increases the cost to the taxpayer.

(3) Since 1981, the Social Security administration has terminated hundreds of thousands of Disability Insurance (DI) recipients, claiming that they were not disabled. At the same time, SSA has also terminated many SSI disability recipients, applying the same, often illegal, tests and procedures it has applied in DI. In addition to terminating the benefits of many, the rate of approval of initial applications for SSI disability and DI benefits has also dropped.

(4) Recent administrative efforts to collect alleged overpayment from SSI recipients reflect the vulnerability of this population to intimidating and unfair collection practices. All too often, SSI recipients have foregone their right to seek waiver of an overpayment, agreeing instead to recoupment of a substantial portion of their monthly benefit. As a result, many elderly and disabled SSI recipients are unnecessarily going without much-needed SSI income.

(5) While the vast majority of SSI recipients are adults, the program is also intended to serve disabled children. The participation rate for disabled children is very low, primarily due to three reasons: (a) lack of knowledge about the program; (b) administrative application of a very restrictive definition of disability which does not take into account the child's functional limitations; (c) the program's failure to recognize a disabled child's family's obligations to other siblings, resulting in resource levels that are far too low to permit families any income security.

THE UNFINISHED AGENDA

Originally, the goal of those who supported SSI and fought for the legislation was to bring those in our society who, through no fault of their own, were in poverty, out of poverty.

There is little doubt that SSI has helped the aged, blind and disabled, but it certainly has not lived up to its promise. SSI benefits still provide an income below the poverty line.

Almost since the day SSI was introduced, there has been a seemingly continuous stream of commissions, committees, hearings and Advisory Councils, all of which have, to some extent or another, found SSI inadequate and made recommendations for improvement.

It is now 1984 and SSI benefits, in constant dollars, remain basically the same today as they were in 1974, and many of the restrictions are worse today, because of inflation, than they were more than ten years ago.

There can be no excape from poverty through SSI payments unless and until the Administration and Congress recognize their responsibility to do more for those who cannot help themselves—those who cannot escape poverty themselves because they are aged, blind or disabled.

Also there are several million Americans who are eligible for SSI benefits who, for a number of reasons, are not receiving them. A majority of those who could be

claiming benefits are not doing so simply because they are not aware of the program, or they do not think they are entitled to receive any benefits. As meager as current SSI benefits are, we have to make sure that those who could be receiving benefits at least know of that right of citizenship and know how to claim that right.

THE SOS ACTION PLAN

Instead of constantly harassing SSI recipients and arbitrarily taking people off the rolls, this Administration and Congress should be taking a number of positive steps.

1. Carry out a major outreach program.

In testifying before Congressional Committees in 1983, the Save Our Security coalition recommended a major outreach program to make those who are potentially eligible for assistance aware that SSI is available.

When Congress enacted for Social Security Amendments of 1983, it directed the Social Security Administration to do just that, by issuing an SSI alert, to let potential beneficiaries know of the availability of this program and to encourage them to contact their local Social Security office for more information about these benefits.

Through inadvertence, the legislation limited this outreach program to retirees. A simple legislative amendment is all that is necessary to require that it be applicable to the blind and disabled, as well. However, the Administration, without legislation, could itself initiate action that would include the blind and disabled.

Because the Reagan Administration has thus far refused to act, the SOS coalition with the Villers Foundation, major national social welfare agencies, and broadly based community organizations, is preparing a vigorous outreach program of its own. It is aimed at those millions of Americans who are eligible for SSI but who, for whatever reason, are not taking advantage of its benefits. Its purpose is not only to make these eligible non-participants aware of the program, but also to assist them in applying for benefits.

The Federal government, in an attempt to develop an effective outreach program, should be working with outside organizations, providing them with funding to carry out outreach programs of their own. If the goal of providing a guaranteed minimum annual income for the nation's aged, blind and disabled is to be realized, then the program must serve all those who are eligible—not just some of them.

2. Increase buying power

Because all earnings and assets restrictions have remained essentially the same since 1973 and inflations has increased by nearly 120%, ability to qualify for SSI has been drastically reduced.

The Save Our Security coalition believes that asset and earnings limitations should be increased by at least 120%. This will simply restore the program to its 1973 level—which was pathetically restrictive in the first place.

3. Raise benefit levels

It simply is unacceptable to have a program which freezes millions of people into poverty. Two national commissions have recognized this major flaw in SSI and have recommended steps to correct this situation.

We recommend that, at the earliest possible date, the basic SSI benefit be raised to the proverty level, and that it be indexed annually to reflect the change in the government's definition of what is the minimum amount needed to provide individuals and couples with such essentials as food, clothing and shelter.

In the future, SSI benefits would be raised to at least 125% of the poverty level and then kept at that level through annual adjustments.

In 1983 the SSI benefit level was $3,531 per year for an individual and 5,296 for a couple . . . more than $1,000 a year under the official poverty level. In other words, in 1983 single recipients got $269 per month to live on and married couples $441 per month. If Federal SSI were raised to the poverty level, single recipients would get approximately $380 per month and couples $490 per month—figures that would still confront many elderly and disabled with the necessity of choosing between adequate food and adequate home heat.

TABLE 1.—COMPARISON OF SSI PAYMENT STANDARDS WITH THE POVERTY LEVEL FOR AN INDIVIDUAL AND COUPLE, 1974–83

Calendar year	Individual			Couple		
	Poverty level [1]	Federal benefit rate	Federal benefit rate as percentage of poverty level	Poverty level [2]	Federal benefit rate	Federal benefit rate as percentage of poverty level
1972	$2,005	[3] $1,560.00	78.3	$2,530	[3] $2,340.00	92.5
1974	2,364	1,716.00	72.6	2,982	2,574.00	86.3
1975	2,581	1,822.20	70.6	3,257	2,733.60	83.9
1976	2,730	1,953.00	71.5	3,445	2,930.40	85.1
1977	2,906	2,073.60	71.4	3,666	3,111.00	84.9
1978	3,127	2,203.20	70.5	3,944	3,304.80	83.8
1979	3,479	2,385.60	68.6	4,390	3,578.40	81.5
1980	3,949	2,677.20	67.8	4,983	4,015.80	80.6
1981	4,359	3,016.20	69.2	5,498	4,524.00	82.3
1982	4,630	3,294.00	71.1	5,840	4,940.40	84.6
1983	([4])	3,531.60	([4])	([4])	5,296.80	([4])

[1] Weighted poverty threshold for residence of one person aged 65 or older.
[2] Weighted poverty thresholds for residence of two persons, one or both aged 65 or older.
[3] Amounts based on SSI benefit levels contained in P.L. 92–603, October 30, 1972.
[4] Not available.

Source: Social Security Bulletin, January 1984/Vol. 47, No. 1.

a. Increase State supplementation

SOS believes that the Federal government should provide greater encouragement to States to provide supplementation and create disincentives for those States that are tempted to reduce supplementation when Federal SSI payments rise.

b. Provide home care supplements

The present Federal income and health care programs force many elderly and disabled people to seek the care they need in institutions when they would much prefer to remain in their communities, at home. Provision should be made to assure that adequate home care is reimbursable by Federal health programs. In many cases, it is not only beneficial for the recipient to be at home, with adequate home care, but it is better for the taxpayer.

c. Encourage recipients to stay with their families

Presently SSI provides financial disincentives to families to share their homes with SSI-recipient relations. Benefits are automatically reduced by one-third when a recipient lives in the home of a family member or other person. For those families who want an aged or disabled person as a member of the family, it seems against the American view of the importance of the family to discourage them from doing so. It also makes poor economic sense because in far too many cases, the recipient ends up in a facility, the cost of which far exceeds the full full SSI benefit plus Medicaid.

SOS therefore supports elimination of the one-third reduction of benefits when a recipient lives in the home of a family member or other person.

4. Link Medicaid to SSI in all States and jurisdictions

Currently, thirty-six States provide SSI recipients Medicaid coverage. This coverage should be mandated in all fifty States and other jurisdictions.

5. Update the assets test

There should be an increase in the assets exclusion to $2,250 and $3,500 immediately and then further increases should be indexed to changes in the cost-of-living. It was not realistic, back in 1973 when the law was enacted, to put an eligibility limit of $1,500 on the assets of an individual and $2,500 on those of a couple. Certainly those limitations are far too restrictive today, because living costs have more than doubled in the past ten years, effectively having the value of the allowed assets. And while there have been improvements in counting the value of household goods, they have not been sufficient to keep pace with inflation.

6. Change disability standards

SOS believes the criteria to establish eligibility for SSI are far too strict and severe, and the interpretation of these criteria has recently become even more severe. The intent of Congress should be applied in the determination and review process. Thousands of persons who are clearly disabled have had their benefits terminated. Congress must deal with this lack of sensitivity on the part of this Administration.

7. Ease eligibility criteria for disabled children

There were 229,151 disabled and blind children receiving SSI payments in 1982. There are many thousands more who should be eligible, but are not because of the asset limitation placed on families. If the family of a disabled or blind child has assets in excess of $1,500 for an individual, or $2,500 for a couple, the balance is "deemed" to be that of the child. If the balance exceeds $1,500, the child loses SSI eligibility. For example, if a single parent with a blind child has $3,100 in countable assets, the blind child is considered to be the "owner" of more that $1,500 in countable assets and therefore ineligibility to receive SSI payments. This intolerable situation has to be changed.

In addition the standard of disability applied should be changed to require that the functional limitations of a disabled child are considered. Finally, special outreach efforts targetted at schools, hospitals and social service programs serving disabled children and their families, must be implemented.

8. Correct administrative problems

Administration of the SSI program has always been plagued by inadequate staffing and administrative difficulties. In the past two or three years, administration of the program has deteriorated even further because of additional staff cuts, increasing work load, system problems and the application of unsound policies by political office holders. This has brought tragedy into the lives of many recipients through sudden loss of benefits, over- and underpayments and difficulties involving Medicaid coverage.

For example, many recipients are overpaid but have no way of knowing they are being overpaid. Months later they will get notice of overpayment and have the total amount deducted in the next month's payment or be asked to refund the full amount. SOS believes that where a recipient receives overpayment, the beneficiary should not be required to pay more than 10 percent of the overpayent in one calendar month. In addition, the problem of underpayment can and should be improved by providing more staff and better administration.

9. Make other improvements

There are many other inequities in the current SSI program. Some of them are structural, others result from the way the Social Security Administration administers the program and interprets the law. During the period 1981–1984, many recipients were arbitrarily thrown off the SSI rolls. This results in untold hardship and deprivation. Congress did not intend that the program would be administered in such a capricious manner, but the Reagan Administration has set out to systematically remove people from SSI, regardless of their needs or Congressional intent.

Many of these inequities and injustices in administering the program and in interpreting the law could be remedied by Administrative action. Unfortunately, Congressional action is necessary to mandate the changes. Therefore, the SSI Equitable Improvements and Reform Amendments of 1984 (H.R. 5341) has been introduced.

SOS actively supports the Amendments, not as a major reform package, but rather as a corrective measure to Administration excesses and disregard of the law. Changes in the Amendments are:

A. To exclude certain gifts from income. At present, all gifts are counted as income.

B. To exclude emergency and other in-kind assistance, such as energy assistance provided by non-profit organizations from countable income. This would extend a temporary provision included in the 1983 Social Security Amendments with expires in 1984.

C. To exclude from countable resources retroactive SSI and Social Security checks.

D. To exclude one automobile from resource limits.

E. To increase resource limits for individuals and couples.

F. To provide to residents of facilities eligible for Medicaid reimbursement two months of full benefits, instead of one month as at present. This would allow recipients greater flexibility to maintain their own home. SOS believes two months is insufficient, but is a start.

G. To provide residents of facilities eligible for Medicaid reimbursement $35 per month while in the facility. This is a start, but to keep pace with inflation the figure would have to be raised to $55 because it has never been raised since 1973.

H. To allow separated couples to claim benefits as individuals after one month of separation, instead of the present six months.

I. To provide safeguards in overpayments, underpayments and benefit reductions aimed at stopping Social Security Administration abuse of these provisions.

J. To extend the SSI program to Guam and the Virgin Islands. SOS would like to see the program extended also to Puerto Rico.

K. To require that a study be conducted of the number of potential recipients who are eligible for SSI but are not receiving it and the reason.

L. To require an ongoing outreach program.

M. To require that the Social Security Administration assist applicants and recipients who are incapable or limited in the ability to apply for benefits.

N. To require published material on the SSI program to be written clearly. SOS would like to see material written and disseminated in languages other than English and also in Braille.

If all these amendments were enacted, together with improved rehabilitation services, they would only start to bring basic SSI benefits back to the 1973 levels. They do not address the key issue of raising SSI benefits up to the poverty level.

IN SUMMARY

The Supplemental Security Income program is based on a sound premise—that the richest nation on earth should be able to demonstrate its compassion for all its needy aged, blind and disabled, regardless of where they live.

The program has prevented many Americans from literally starving to death, but there are still millions more who are eligible who are presently not receiving SSI benefit coverage.

However, providing benefits that only keep people from starvation is not enough. If we can justify the largest defense budget of any western nation, and huge tax breaks for the richest in our country, there is no excuse for us not to bring our seniors, blind and disabled at least up to the poverty level.

Chairman FORD. Mr. Harris.

STATEMENT OF JOHN HARRIS, SPECIAL ASSISTANT TO THE PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO)

Mr. HARRIS. Thank you, Mr. Chairman.

I am John Harris, and I am the special assistant to the national president of the American Federation of Government Employees.

AFGE is the labor union that represents 72,000 Social Security workers including 90 percent of those that work in the district offices where SSI is administered hands-on to the public.

Our point of view in speaking today is as representing those workers and their point of view. I was myself a claims representative for Social Security until just a few months ago when I took this position and then, in that capacity, I also was the president of the National Council for the Social Security District Offices for AFGE for a period of about 5 years.

AFGE has shared this bill with its workers and has been evaluating it over the period of months as it has developed. We have talked to the workers and asked them what they felt were the pros and cons of it, what ways it might be changed or modified to improve it. Overall, the workers have expressed their feeling that it is a piece of excellent legislation.

We have a general statement that we would like to submit for the record and there will be an appendix that details a section-by-section analysis also.

Chairman FORD. It will be made a part of the record, Mr. Harris.

Mr. HARRIS. Thank you.

I would like to just highlight the points we made in our main testimony. They relate to three issues. First, the question of the limitation of resources and the increasing of the assets test. Second, the question of the overpayment administration. Third, the value and cost of this legislation.

Before I begin, I should introduce my colleague, Kris Kramer, who is representing the National Council today and is herself a claims representative from the Pittsburgh area and is local president there. She will be making an additional statement to accompany mine.

Regarding the assets test, I don't think it can be said too often, as it has already been said, that simply put, the value of money is not the same today as it was 10 years ago and that $1,500 is worth at least half that and that what expenses people now have are twice as much. This has had two direct consequences on the SSI program that we, as workers, see.

One, more people are simply denied benefits than should be—more than were before. It is one of the most common forms of denials to see someone disallowed SSI because of very modest amounts over the $1,500 limitation.

We are speaking here now of largely cash assets, very small amounts of cash money.

This seems especially unconscionable when you remember these are people whose cash income is far below the level of poverty.

Second, because SSI does not keep up with the current value of money, eligible recipients have to choose between ineligibility or maintaining their resources at adequate levels.

In our experience as workers, we see people voluntarily terminating their SSI eligibility in order to maintain their savings accounts.

We reflect for you, I guess, what they say to us and what we observe as to why they do that. It is, as Dr. Bechill has suggested, that they need this money for those kinds of expenses that cash monthly income simply are not sufficient to provide—things like repairing a home; maintaining an automobile, which they may need to go to a doctor or may need, in the case of a disabled individual, for work, sheltered work largely; or to meet other sorts of extraordinary cash outlays like property tax or electric and gas bills.

The consequence of not having those adequate incomes, or that cash resource, that asset, is substandard housing, isolation, inadequate medical care—many of these people still pay much of their own medical care—insecurity and other consequences such as gas and electric cutoffs.

If there is any thing at fault with the legislation, it is that the assets test is too low. From our own observations and from professional studies, it appears the real asset test for poverty is more at a level of $3,000 to $5,000, not $2,000, which we submit will only permit a small number of additional people to become eligible.

Nevertheless, we support it, small that it might be, modest though it might be. It is something long overdue.

The second issue that we wanted to emphasize was the problems relating to overpayment administration. This union has been pro-

testing the practices of management for over 2 years, since the practices began as the so-called debt management project. As it stands now, an overpaid recipient will be threatened with, in effect, termination of their benefits if they don't pay in cash the amount of the alleged overpayment.

In fact, Social Security does withhold all of the SSI payments from these recipients in 26 percent of the cases where the overpayments are recovered from recipients. Prior to this policy, Social Security would only take one fourth or 25 percent of a benefit. Now, in more than half the cases, they take more than 25 percent of their benefit.

Your proposal to limit the amount is urgently needed. SSI payments with or without additional income are still an income below the level of poverty and to reduce that marginally adequate income more as a matter of policy is indefensible.

As a related proposal in section 201, you propose to limit the amount of overpayments incurred because of excess resources. We strongly support that provision as well.

We have found from our experience that in most cases these overpayments are the result of very small amounts of money which have been added to savings gradually. These overpayments are not intentional; they differ from cases where an overpayment is the result of more available income, which presumably justifies a proportionate decrease in SSI.

These small amounts of money are not worth much, and yet if, say, there is an excess of $10 in savings, that can mean an overpayment of up to $360 per month.

If that excess resource continues for a number of months, as it usually does, that overpayment can compound and become as high as $3,000 to $5,000; that is, many times more than all the resources that the recipient has and many thousands of times more than the original excess that the recipient had.

From our point of view, it is therefore logical and fair that if the person has been overpaid because they have too much money in the bank, the amount of the overpayment ought to be the amount they have extra, no more, no less. To do otherwise, we feel, is simply punitive.

The only criticism that I have heard from the Social Security Administration, from management directly, is that if we adopt this policy, they will not be able to collect as much money in overpayments.

Taken to its logical conclusion, what they are now doing is that they are using the savings of some of these people who get slightly overpaid, who have slightly more than $1,500, they are taking that $1,500 and refinancing the SSI they have paid to those individuals over the last 12 months or so.

The final issue we want to highlight is the cost and value of this legislation. We know——

Chairman FORD. Can the Chair ask you to pause?

We have about 4 minutes to go to the House and record our vote. We will resume in 4 or 5 minutes unless Mr. Pease comes back in the next minute or two.

We will stand in recess for about 2 minutes.

[Recess.]

Mr. PEASE [presiding]. The meeting will resume.

Mr. Harris, I understand that you were in the middle of your testimony when the chairman had to recess. Would you like to proceed?

Mr. HARRIS. Thank you, Mr. Chairman.

I was discussing our third major concern, issue in this legislation. We thought we should highlight three. That was the cost and value of the legislation.

The cost it is estimated is approximately $150 million. We know of no way which is humane or moral to stop hunger except to feed the hungry or any way to provide shelter except to provide it, or ways to provide for the sick except to comfort them, and give them medicine.

We think it is absurd when we hear that people say that antipoverty programs in America are failures because there is still poverty in America. We don't know any other way to make poor people less poor than to give them money and the things that they need.

Every dollar of SSI is spent directly to solve the problem that SSI is supposed to solve. The $150 million here in this legislation reduces $150 million of poverty. Few business ventures can claim such a profitable return. In this sense we feel that the value of the legislation is equal to the cost and we recommend it accordingly.

But we understand the concern for the Federal deficit. We know that in practical politics these days legislation to increase outlays must normally be offset by measures to fund that outlay.

With that in mind we, as the union and as administrators of the program, offer a suggestion that might provide a savings of $150 million to $200 million which we believe would more than finance this legislation. Again I want to emphasize that we feel the legislation has merit on its own, we think it is a shame that you have to have these kinds of measures in order to justify programs or legislation like this.

The proposal that we would have is very simple. In fiscal year 1983, Social Security had overpayments in SSI of $374 million. These represent overpayments to approximately 1.4 million recipients of the 3.9 million recipients, roughly one-third.

In addition to those that are overpaid we know there are many that are underpaid. We don't have any statistics on that. Our workers estimate that it would be approximately 1 in 10. So between the two of those we have perhaps as many as 4 in 10 recipients in any year that were over or underpaid. This illustrates a profound administrative problem.

We believe that the cause of it is because the Social Security Administration does not have a good program to redetermine the payments made to SSI recipients. But our concern goes deeper than just overpayments and underpayments. They not only do not ensure that people are properly paid, they do not ensure that representative payees who receive SSI benefits are using them for the beneficiary. They do not ensure that nursing homes are meeting their responsibilities. They do not ensure that recipients are referred for other programs that can help them such as the low income emergency assistance payments for gas and electricity.

SSA in fact has suspended its operation to check on representative payees for a period of 5 years and only now has started it

again and that only partially and that only with a small percentage of individuals. Therefore, we would propose that title XVI of the act be amended to mandate that there be regular and periodic redeterminations of benefits, at least annually, that ensure these things, not just proper payment, but also that the payments are actually being used for the beneficiary properly when they are assigned to the nursing home or some other person, and that people are referred for benefits properly when they should be.

In saying this we would also urge that that kind of reform be made in conjunction with a new attitude in the program. The redetermination process is often demeaning and burdensome for recipients in the program and for the SSI workers I might say as well. In order to change that pattern or practice it is necessary that Social Security take on some of the philosophy and some of the principles of social work which it does not now have.

It is necessary that Social Security in general look at SSI overall and commit more and better resources to that program and stop treating the program as the bastard child which it now does.

The offer that we make here is made as a suggestion that may help solve the political problem of getting this bill through. We will help you try to make that happen. But again, I emphasize, we believe the bill has merit of its own and should be passed on that.

Ms. Kramer, our president from our local in Pittsburgh and representative of the council has a few comments to add.

[The prepared statement follows:]

STATEMENT OF JOHN HARRIS, ON BEHALF OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO)

Mr. Chairman, the American Federation of Government Employees is the labor union for 72,000 Social Security workers, including 90 percent of those working in the Social Security district offices where the SSI program is administered to the public.

Our union and these workers strongly believe that our responsibility to the public is not limited to the worksite and that we should bring our concerns and our experience to Congress and the policy-makers of Government so that the programs we carry out as workers are improved, made more efficient and effective, and made more fair and equitable.

Today, as workers who administer SSI, we testify about your legislation, H.R. 5341, "the SSI Equitable Improvements and Reform Amendments of 1984". We have studied it closely, evaluating it with the expertise of Social Security workers whom we represent, and would like to share with you our findings and conclusions.

Overall it is excellent legislation, the only fault of which is perhaps the absence of additional reforms. As it is written, it will do much to alleviate many of the problems and inequities of the current law. We fully endorse it and we hope that it will be swiftly enacted.

We have included in our testimony a detailed section-by-section commentary as an appendix. In some instances we have made suggestions which we think will enhance the administration or implementation of the legislation. Our general purpose was to express our opinions on the rationale and impact of the various provisions.

Here in our main statement we wish to highlight the major issues in this legislation, in an effort to provide you the point of view of those with hands-on experience in this program. There are three such issues we want to discuss: the proposal to increase the resource limitation, the proposals relating to overpayment administration, and the cost and value of this legislation in general.

First, regarding the proposal to up-grade the resource limitation or the so-called assets test, the union believes it is long overdue. Ten years have passed since that limit was set at $1,500 for individuals and $2,250 for couples. The inflation of money's value alone more than justifies an increase of this limit. Put simply, money does not go as far today as it did in 1974. While payment amounts have more than doubled in this period, the asset test has stayed the same.

This has two consequences. More people are denied benefits than should be, if we had kept up with the current value of money. Remember, we are speaking of persons whose cash income is less than 90% of the poverty level in the first place. Secondly, because SSI does not keep up with the current value of money, eligible recipients must choose between ineligibility or maintaining their resources at inadequate levels. They generally choose to sacrifice their resources and that will mean for many not having sufficient money with which to repair their home, maintain an automobile, or otherwise meet those extraordinary expenses that cash income cannot possibly cover. This hardship in turn causes substandard housing, isolation, inadequate medical care, insecurity, and other consequences associated with an inability to meet large occasional expenses (electric and gas cut-offs, or example).

If fault can be found with the legislation, it is that the asset test is still too low. We know from experience and professional studies that low income is associated with low resources. Generally those with low income have next to nothing in assets, apart from the barest essentials. Where they have cash assets, they have been accumulated painstakingly over many years, often at personal sacrifice. For the elderly these assets represent a security that many find hard to understand. But remember that those are generally persons whose lives have been spent in poverty even when they were able to work, and these savings were meant to protect and sustain them. Often they are intended for burial and would not be spent on anything else even if it meant hunger. We are speaking of, you must remember, elderly and disabled people who but for this money have no assurance that a proper burial may be arranged, people often alone in the world.

Again, if anything, the test is too low. A 1979 study by the Department of Agriculture has found that where people quality for food stamps because of income but have more than $1,500 in assets, only about 6% of them have between $1,500 and $2,000 which is the proposed new level. If there is a point at which resources are so high that people must be compelled to use them for daily living expenses, it appears to be somewhere between $3,000 and $5,000. Otherwise, we conclude, people will try to get by on inadequate income rather than utilize these cash assets which they intend for emergencies.

We must assume that these people understand their circumstances better than we do. If they feel that $3,000 to $5,000 is necessary for meeting such emergencies, then so it must be.

In the real world the assets test for povertry is two to three times higher than that which is used in SSI. Lacking any scientific basis, therefore, the reason that SSI does not have a higher asset test is simply because a lower test keeps people qualifying for benefits—it is a tradeoff between general revenues and the personal hardship of individual citizens. We do not think at is a justifiable tradeoff and, for the amount of tax dollars we are talking about, we think it is callous and meanspirited.

To up-grade the assets test as this legislation proposes is a modest measure. It will benefit by far many more than it would if you gave that same money back to the taxpayer.

The second major issue in this legislation are those provisions which relate to overpayment administration in the SSI program. Our union has protested the current practices of management for over two years, ever since in fact the initiative began—the so-called debt management project—which has resulted in abusive and coercive treatment of SSI recipients. Under current practice an overpaid recipient is threatened with termination of payments if they do not pay in cash the amount of the alleged overpayment. In fact Social Security does withhold 100% of SSI payments in about 26% of the cases where overpayments are recovered from payments. Prior to this new policy, Social Security would never take more than 25% of the SSI payment in a recovery action: currently, more than half of the overpayment recoveries take more than 25% of a recipient's SSI check. Your proposal (section 501) to limit the amount of withholding is urgently needed. SSI payments, with or without additional income, are still an income below the level of poverty. To further reduce this marginally adequate income, as a matter of policy, is indefensible: It violates the intent of the program. It places recipients in such jeopardy that they must fail to meet their daily expenses or take cash from other sources which may count as income and compound the overpayment or further reduce their SSI payments because of the income needed to sustain the recipient while the SSI payment is terminated.

Other proposals in this legislation which this union is pleased to support are those which exclude interest as income (section 103) and which forgive certain overpayments because of excess resources (section 201). Counting interest income in computing SSI payments is a costly and annoying administrative practice. It saves the Gov-

ernment $1.75 million per year in additional SSI payments, but it costs the Government $2.8 million to count this income in the computation. In other words, it is a million dollar waste of time and we're glad to see it eliminated. It will give us resources that are better spent elsewhere.

For similar reasons we also believe that your proposal in section 201, namely to limit the amount of overpayments incurred because of excess resources, is wise. In most cases these overpayments are the result of small amounts of money which have been added to savings gradually. These overpayments are not intentional. They differ from the case where an overpayment is the result of more available income which presumably justifies a proportionate decrease in SSI. These extra monies small in amount, are not worth much. Yet, as it is, an excess of $10 in savings can mean an overpayment of up to $360 per month. And if an excess resource continues for a number of months, as it usually does, the overpayment compounds and can become as high as $3,000 to $5,000, that is, much more money than all the recipient owns and many thousands of times greater than the original excess the recipient had. It seems logical and fair that if the recipient is said to be overpaid because he or she has too much money in the bank, that the overpayment ought not to be greater than the extra money he or she has. To take more than that, unless fraud is involved, seems punitive and worsens his or her poverty. The only objection which we have heard to this provision is that Social Security won't be able to collect as much money in these overpayments. That is certainly true. But it begs the question: Is it fair to collect that overpayment in the first place?

Taken to its logical conclusion, the current practice takes the savings of some hapless recipients who had slightly more then $1,500 in the bank and uses them to refinance their SSI for the last 12 months or so. That can happen and it does happen in our experience. We think it antithetical to the purpose of SSI, and so we support the amendment you propose to eliminate this practice.

The third issue we wish to address is the cost and value of this legislation. The cost, it is estimated, is approximately $150 million.

We know of no way which is humane and moral to stop hunger except to feed the hungry. Shelter is needed to house the homeless; clothing and medicine comfort and care for the needy and sick. We think it absurd when we hear people say that anti-poverty programs like SSI are failures because there is still poverty in America. How else do you make poor people less poor than to give them money and the things they need? Is it meant that someone other than Government will do these things?

We do not doubt the good that charity does or that it is larger today than ever before. But that is itself a testimony to the insufficiency of it, unless we organize in self-government to share our monies through taxes and programs such as these so that the poor do not starve, or are homeless, or are sick, or die. Every dollar spent on SSI is directly to solve the problem it's supposed to solve. The $150 million spent here reduces business ventures can claim such a profitable return. In this sense the value of this legislation is equal to the cost and we recommend it accordingly.

But we understand the deep and overwhelming concern for the Federal deficit. We know that practical politics dictates that legislation to increase outlays be offset by measures to fund it. With that in mind we offer the following proposal to save between $150 million and $200 million per year in SSI payments. It is a direct savings to the program and facilitates the elimination of waste, fraud and abuse in the program.

In fiscal year 1983 about $374 million in overpayments occurred in the SSI program. In the last half of that fiscal year more than 700,000 recipients were affected by overpayments. This amounts to 18 percent of the total number of recipients. In the first half of the year a similar number were affected. From these statistics and from our own experience we have concluded that in any given year about ⅓ of the SSI recipients received erroneous payments, generally for more than one month. In addition there are substantial numbers who are underpaid—statistics for which are not readily available. We would estimate this as perhaps ⅒ of the recipients, based on observations of our workers.

That 4 in 10 recipients are not being paid correctly during the year illustrates serious administrative problems with the program. The fault, we believe, lies in the reduction and abbreviation of redeterminations for benefits which SSA has adopted to save administrative dollars. In the beginning every recipient was reviewed at least once-a-year. Over the the last years or so that practice has changed so that currently many are not reviewed at all, some are only reviewed at all, some reviews are comprehensive but most are curious and limited. The result has been, we believe, that substantial savings have been lost.

But there are other concerns as well. To ensure that the SSI recipient is properly paid is not merely to prevent overpayments. It also ensures that they are paid the highest amount to which they are entitled, it ensures that representative payees are properly using the money for the recipients, it ensures that nursing homes are meeting their responsibilities, it ensures that recipients are referred for other programs which might help them (such as low income emergency assistance payments for gas and electricity). Currently these are not ensured. In fact, SSA suspended its accounting of representative payees for five years and only now has begun a partial accounting of a small percentage.

The union proposes that language to amend title XVI of act be adopted such as the following:

The Secretary shall ensure that full and correct payment is made to each recipient by periodic redetermination, at least annually, and more frequently when necessary and appropriate. Such redeterminations shall provide an annual accounting of representative payees (and more frequently as necessary), referral for other available programs serving the elderly and disabled, and regular review of medical facilities where recipents may reside."

We share the concerns of many that the redetermination process may be demeaning and burdensome for the SSI recipients and we believe that administrative attention can and should alleviate these problems. We note that the SSI program was carefully crafted to try to avoid the welfare stigma: That is one of the reasons it was given to Social Security to administer. Over the years SSA seems to have forgotten that program objective. But while the redetermination can be made more efficient and humane, it is also essential that it be increased and intensified if we are to ensure full and correct payments. To provide more humanity in the SSI program will require a training and education program. The philosophy and principles of social work should be contained in the SSI administration. This is a major departure for Social Security and will require strong congressional support, both in guidance and in appropriations. It is critically needed.

The proposed language to increase and intensify redeterminations will bring savings of at least $150 million, we believe. With savings intrinsic to H.R. 5347 itself, this will more than pay for any costs, and will improve program administration overall.

Other reforms are needed and further attention must be paid to the administrative problems of the SSI program. AFGE will continue to participate in these issues and AFGE will actively support such changes.

Ms. KRAMER. Instead of reading my statement I would just submit it for the record and make a few highlights.

Mr. PEASE. That is fine.

STATEMENT OF KRIS KRAMER, PRESIDENT, AFGE LOCAL 3231, ON BEHALF OF THE NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS, AFGE

Ms. KRAMER. When you were out of the room Mr. Harris explained to Mr. Ford that I am in a unique position, I am here representing a national council which is the union of the workers who administer this program, but I am also one of the workers myself. I am a claims representative who sits across the desk from SSI recipients when they become eligible and when they are reviewed to continue their eligibility, and this is what I do day in and day out.

There are two points I want to bring up and that is first of all, under the current method which the administration runs the SSI program, we cannot guarantee proper payment to individuals at all times. Now, a lot has been said about overpayments and that is true, people do get overpaid and for lengthy periods because of the way we administer the program, but just as important there are a lot of underpaid people.

The point is that there are improperly paid people and that we need to deal with this.

The second point is that we need to do a more thorough or full review of continued eligibility factors so that people get what they deserve and that they are aware of the changes that occurred that may lead to overpayments. If you don't catch them until several years later that is why the overpayments are large, that is one of the problems.

I wanted to make two comments about the previous testimony which I have heard.

One is from Ms. Howard, I believe, who, when asked, answered that she thought the rate for personal needs should be $75. She is not exaggerating. Things have gone up three times and in fairness that $25 should be increased. If the bill makes it $35, that is a step in the right direction at least.

If you choose to accept the other person's proposal of $50, that is even a better step in the right direction. But that certainly does need change.

Also, the second comment, from Mr. Bechill I believe, when he said there is a meanness to this program he was not kidding. Originally when we started administering this program we did not send overpayment notices that demanded 100 percent of the money back. That has been a recent development since debt collection mania has struck the Federal Government and of course affected Social Security and that is just one example but that word "meanness" is exactly correct, and I think your committee may want to adopt a suggestion of Mr. Harris and other persons whom I am sure you will hear today and address that issue as well.

I will not say anything else about the statement which is submitted. You can read it but I will be more than happy to answer any questions you may have.

[The prepared statement and attachment follow:]

STATEMENT OF KRIS KRAMER, PRESIDENT, AFGE LOCAL 3231, ON BEHALF OF THE NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS, AFGE

My name is Kris Kramer. I address you today on behalf of the National Council of Social Security Administration Field Operations Locals which represents all of the bargaining unit employees in Social Security field offices under the American Federation of Government Employees. I serve as President of Local 3231, and I am a claims representative for the Supplemental Security Income program in the district office at Ambridge, Pennsylvania. That is the long way of saying that I am a union official who also works with the SSI program determining who becomes and who remains eligible for SSI payments.

The purpose of my testimony is to bring to this subcommittee's attention the fact that the integrity of the SSI program is diminishing because our Administration does not review the factors of eligibility as frequently and as fully as we should. We overpay some beneficiaries while underpaying others and do so for lengthy periods without timely correction because factors of eligibility, such as income, resources, and living arrangements which are subject to frequent changes, are not reviewed to the extent that proper payment demands.

Our Administration was charged by Congress with carrying out the provisions of the SSI program in a manner which assured proper payments to eligible persons. This included reviews to assure correctness of continued payments. We do review cases, but we no longer perform a full review on everyone's eligibility annually. We have cut corners to the point where some records have not been fully reviewed, or redetermined as the jargon goes, for several years. We can not guarantee proper payment without reviews, and each time that we cut the review in terms of either frequency or depth, the assurance of proper payment is lessened.

Before leaving my office yesterday, I had pulled the records of six SSI beneficiaries who are currently scheduled for a redetermination. On only two of the six were full redeterminations done within either the last twelve months or within the

calendar year of 1983. The remaining four had full redeterminations last done in either 1976 or 1977. Seven or eight years is a long time to go with only abbreviated reviews. The potential for improper payments is great.

At this point, I would like to explain the difference between what I am calling a "full" redetermination and an "abbreviated" review. Our Administration has two forms by which we review cases: both forms sport the same title, but one has 27 detailed questions on it, while the other one has eleven brief questions on it. I have attached a sample of each for your information. The first form, SSA-8200 BK, covers all of the factors of eligibility. The second form, SSA-8202, covers the main factors of eligibility, but does not address ownership of major items such as motor vehicles and life insurance policies. The longer form is generally completed in a personal interview, while the shorter form is generally mailed for the beneficiary to complete himself. The real difference between the two forms, and hence in the review itself, is that only the longer one elicits detailed information. I offer one example. Comparing the questions relating to ownership of resources, you will find that the longer, detailed form addresses possible ownership of 25 different items (See SSA-8200 BK #11, #12, and #13.) while the shorter less detailed form addresses possible ownership of only 9 different resources items. It is too easy for people to overlook the remaining 16 types of resources when they are completing the short form by themselves. The questions are just not detailed enough for proper review of resource ownership, and using this shorter form year after year compounds the potential for error in continued eligibility.

In closing, I tell you that the workers who administer the SSI program like I do want to do a good job. We want to run the program so that eligible persons are guaranteed proper payments at all times. In order to succeed, we must perform full and frequent redeterminations of all factors of eligibility. Please support us in our efforts by supporting legislative action requiring full redeterminations at least annually.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration

Form Approved
OMB No. 0960-0131

TO BE ENTERED BY SSA
☐ FS-SSA/APP ☐ FS-REFERRED

STATEMENT FOR DETERMINING CONTINUING ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME PAYMENTS

I understand that the information requested below is needed to determine my continuing eligibility to Supplemental Security Income and/or State supplementary payments and may result in an adjustment of my payment. I also understand that this information may be used in determining my eligibility for State Medicaid or social services.

DATE OF LAST REDETERMINATION OR DATE OF APPLICATION MM DD YY
__ __ __ __ __ __

DO NOT WRITE IN THIS SPACE

(CIRCLE ONE) C NC
(CIRCLE ONE) A B C
INTERVIEWER'S INITIALS

Show your first name, middle initial, last name, and social security number in the spaces below. If you are married, your spouse's name and number should be shown below your name and number.

YOUR NAME *(PLEASE PRINT FIRST NAME, MIDDLE INITIAL, LAST NAME)*	SOCIAL SECURITY NUMBER
SPOUSE'S NAME *(PLEASE PRINT FIRST NAME, MIDDLE INITIAL, LAST NAME)*	SOCIAL SECURITY NUMBER

Do you understand that anyone who knowingly and willingly makes or causes to be made a false statement or representation of material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal or State law or both?	YOUR ANSWER	SPOUSE'S ANSWER
	☐ YES ☐ NO	☐ YES ☐ NO

1. CHECK (√) THE BLOCK (a), (b), or (c) BELOW WHICH SHOWS YOUR PRESENT MARITAL STATUS THEN GO TO (d)

(a) ☐ SINGLE ☐ WIDOWED ☐ DIVORCED

(b) ☐ MARRIED AND LIVING WITH SPOUSE

(c) ☐ MARRIED AND LIVING IN A SEPARATE HOUSEHOLD FROM YOUR SPOUSE. ENTER DATE YOU AND YOUR SPOUSE BEGAN LIVING APART

(d) If married, widowed, or divorced since your last determination *(initial application or last redetermination)* give date of event → MONTH/YEAR

2. CHECK THE BLOCKS BELOW WHICH BEST DESCRIBE YOUR LIVING ARRANGEMENTS

(a) YOU LIVE
☐ Alone ☐ With spouse and/or children only ☐ With other people

YOUR SPOUSE LIVES
☐ Alone ☐ With you and/or children only ☐ With other people

(b) YOU LIVE IN A
☐ House ☐ Apartment ☐ Mobile Home ☐ Room
☐ School ☐ Hospital ☐ Rest or Retirement Home
☐ Rehabilitation Center ☐ Nursing Home ☐ Other (Specify) _____

DATE YOU BEGAN LIVING THERE → MONTH/DAY/YEAR

DATE SPOUSE BEGAN LIVING THERE → MONTH/DAY/YEAR

(c) If you and/or your spouse do not live in a house, apartment, mobile home, or room give

NAME AND ADDRESS OF PLACE WHERE ☐ YOU OR ☐ SPOUSE LIVE(S) *(CHECK ONE OR BOTH BLOCKS AT LEFT)*

	YOUR ANSWER	SPOUSE'S ANSWER
(d) Has there been a change in your living arrangements since your last determination *(initial application or last redetermination.)*?	☐ YES ☐ NO	☐ YES ☐ NO
(e) Do you expect a change in your living arrangements in this month or in the next 12 months?	☐ YES ☐ NO	☐ YES ☐ NO

IF "YES" TO EITHER (d) or (e) OR BOTH, PLEASE EXPLAIN THE CHANGE(S) IN YOUR LIVING ARRANGEMENTS AND DATES CHANGES TOOK PLACE

3. Do you own or are you buying, or do you pay rent for all or any part of the residence you live in?

YOUR ANSWER	SPOUSE'S ANSWER
☐ YES ☐ NO	☐ YES ☐ NO

(a) If you own or are buying the residence you live in give the monthly mortgage payment → $

(b) If you (or any person who lives with you) pay rent for the residence you live in (whether it is a home, apartment, room, hotel, rooming house, etc.) give monthly rent → $

Name of person who pays rent →

LANDLORD'S NAME AND ADDRESS

LANDLORD'S TELEPHONE NUMBER

Landlord's (landlord's spouse) relationship to you, your spouse, or any other person who lives with you →

(c) If any other person lives with you and/or your spouse, give:

NAME OF ANY OTHER PERSON(S) WHO LIVES WITH YOU AND/OR YOUR SPOUSE	OTHER PERSON(S) RELATIONSHIP TO YOU	OTHER PERSON(S) DATE OF BIRTH	IF OTHER PERSON(S) BLIND OR DISABLED	IF UNDER 22		MONTHLY INCOME FOR EACH UNMARRIED CHILD
				STUDENT	MARRIED	

	YOUR ANSWER	SPOUSE'S ANSWER
(d) Do all the persons who live with you receive some type of income or assistance based on need? *(If "No" and you live with someone other than a spouse and children, also complete Part I of SSA-8006-F4.)*	☐ YES ☐ NO	☐ YES ☐ NO

(e) If you and/or your spouse do not own or rent your residence, and do not live with the person(s) who does own or rent it, give:

NAME AND ADDRESS OF PERSON WHO OWNS OR RENTS THE RESIDENCE WHERE YOU LIVE	TELEPHONE NUMBER

(f) If you and your spouse live in someone else's residence with any other person *(AND you answered "No" to (d) above)*, complete Part II of SSA-8006-F4 *(begin with Question 2B, on SSA-8006-F4)*.

4 Does anyone who does not live with you pay for, or help you pay for, any of the following items: food, rent, home mortgage payments, insurance, taxes, fuel, electricity, garbage removal, gas, water and/or sewer bills?

YOUR ANSWER	SPOUSE'S ANSWER
☐ Yes ☐ No	☐ Yes ☐ No

If "Yes," please provide the following information about each item you receive.

ITEM	NAME, ADDRESS AND TELEPHONE NUMBER OF CONTRIBUTOR	FREQUENCY OF PAYMENT	DOLLAR VALUE

5 Since your last determination (initial application or last redetermination), have you received or do you expect to receive any wages in this month or the next 14 months? If you and/or your spouse answered "yes", complete (a) and (b) below.

YOUR ANSWER		SPOUSE'S ANSWER	
YES	NO	YES	NO

(a) Current Month's Wages

NAME OF WAGE EARNER	NAME AND ADDRESS OF EMPLOYER	EXPECTED TOTAL WAGES BEFORE ANY DEDUCTIONS FOR THIS MONTH AND ACTUAL MONTHLY WAGES SINCE LAST REDETERMINATION

(b) EXPECTED TOTAL WAGES (BEFORE DEDUCTIONS) FOR EACH OF THE NEXT 14 MONTHS

MONTH	AMOUNT	MONTH	AMOUNT	MONTH	AMOUNT	MONTH	AMOUNT	MONTH	AMOUNT
1	$	2	$	3	$	4	$	5	$
6	$	7	$	8	$	9	$	10	$
11	$	12	$	13	$	14	$		

6 Have you or your spouse received or do you or your spouse expect to receive any earnings from self-employment in this month or the next 14 months? If yes, complete (a) and (b) below.

YOUR ANSWER		SPOUSE'S ANSWER	
YES	NO	YES	NO

(a)

NAME OF SELF-EMPLOYED PERSON	TYPE OF BUSINESS	LAST YEAR'S AND/OR PRIOR YEARS'		DATES OF SELF-EMPLOYMENT
		GROSS INCOME	NET INCOME OR LOSS	

(b) THIS YEAR'S EXPECTED GROSS INCOME $ | THIS YEAR'S EXPECTED NET INCOME (OR LOSS) $

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7 Since your last determination (initial application or last redetermination) have you received or do you expect to receive in the next 12 months any of the following kinds of income?

		YOUR ANSWER		SPOUSE'S ANSWER	
		YES	NO	YES	NO
(a)	Earned Income Tax Credit				
(b)	Veterans (including Civil Service) Benefits				
(c)	Annuities				
(d)	Unemployment Compensation				
(e)	Worker's Compensation				
(f)	Aid to Families with Dependent Children				
(g)	Veterans Administration Payments for Education				
(h)	Veterans Administration Payments Based on Need				
(i)	Veterans Administration Payments Not Based on Need				
(j)	Railroad Retirement Board Payments				
(k)	(Title II) Social Security Benefits				
(l)	Black Lung Payments				
(m)	Rental Income				
(n)	Lease Income				
(o)	Dividends or Royalties				
(p)	Interest Income				
(q)	Support or Contributions From any Person or Organization (such as cash, free room, free food, clothing, gifts, etc.)				
(r)	Other Income of any Kind				

8 If you and/or your spouse answered "Yes" to any item 7(a) through 7(r), complete the following; otherwise go on to 9

NAME OF PERSON WITH INCOME	TYPE OF PAYMENT OR INCOME (SUCH AS PENSION, FREE FOOD, GIFT, ETC.)	MONTH(S) ITEM IS RECEIVED OR EXPECTED

TOTAL MONTHLY VALUE OF ALL ITEMS RECEIVED OR EXPECTED	NAME OF PERSON OR ORGANIZATION FROM WHICH ITEM(S) IS RECEIVED OR EXPECTED	CLAIM OR IDENTIFICATION NUMBER, IF ANY

9 (a) Do you or your spouse expect to travel or visit outside the United States (50 States, District of Columbia, or Northern Mariana Islands) within the next 12 months? ☐ YES ☐ NO
If "Yes," answer (b), (c), (d), and (e). If "No," answer 9(e) only.

(b) WHO WILL BE OUTSIDE THE U.S. (CHECK ONE) ☐ YOU ☐ SPOUSE ☐ BOTH

(c) EXPECTED DATE OF DEPARTURE

(d) EXPECTED DATE OF RETURN

(e) Have you or your spouse been outside the United States (50 States, District of Columbia or Northern Mariana Islands) since your last determination (initial application or last redetermination)? ☐ YES ☐ NO

If "YES," EXPLAIN AND GIVE DATES YOU WERE GONE

10

	YOUR ANSWER	SPOUSE'S ANSWER
Are you currently receiving food stamps or have you filed a food stamp application within the past 60 days on which you have not received a decision?	☐ YES ☐ NO	☐ YES ☐ NO
If "No," do you now want to apply for food stamps?	☐ YES ☐ NO	☐ YES ☐ NO

11

Does you, your spouse, anyone living with you, anyone acting on your behalf, or any other person have any of the following as of the date of this application or any time since (date)?	YOUR ANSWER		SPOUSE'S ANSWER	
	YES	NO	YES	NO
(a) Savings Accounts				
(b) Checking Accounts				
(c) Savings Certificates				
(d) Bonds				
(e) Stocks				
(f) Promissory Notes				
(g) Other items that can be cashed				

12

Do you, anyone living with you, or any other person have any:	YOUR ANSWER		SPOUSE'S ANSWER	
	YES	NO	YES	NO
(a) Household or Personal Items Valued at More than $500 Per Item				
(b) Savings or Pre-Paid Contracts for Future Burial Expenses, cemetery lots, or crypts				
(c) Life Estates or Inherited Property				
(d) Motor Vehicles — How many do you have _____				
(e) Any Motor Vehicles Acquired Since your Last Redetermination?				
(f) Cash at Home or with you or Anywhere Else				
(g) Life Insurance Policies with Face Values Totalling More than $1500 Per Person				

13 If your answer is "Yes" to any item in Question 11 or 12 give:

OWNER(S) OF EACH ITEM	NAME OF EACH ITEM	TOTAL VALUE OF EACH ITEM	HOW MUCH IS OWED ON EACH ITEM	DESCRIPTION (WHERE APPROPRIATE GIVE NAME AND ADDRESS OF BANK, COMPANY OR ORGANIZATION.)

14 Have you sold any property or given as a gift, any cash or property, to any person since your last determination (initial application or last redetermination)? If "yes," complete the rest of this item.

YOUR ANSWER ☐ YES ☐ NO SPOUSE'S ANSWER ☐ YES ☐ NO

NAME AND ADDRESS OF PURCHASER OR RECIPIENT	RELATIONSHIP TO YOU	DATE SOLD OR GIVEN AWAY	IF PROPERTY WAS SOLD, WAS IT ON OPEN MARKET?	DESCRIPTION OF PROPERTY

VALUE PROPERTY AND/OR AMOUNT OF CASH GIFT	SALES PRICE OR OTHER AGREEMENT	ANY ADDITIONAL CONSIDERATIONS OR PROCEEDS EXPECTED (EXPLAIN AND GIVE DATE EXPECTED)	DO YOU HAVE A REMAINING INTEREST IN THE PROPERTY OR CASH THAT WAS TRANSFERRED

15. [illegible] ☐ YES ☐ NO ☐ YES ☐ NO

(a) [illegible]					

(b) Explain the basis for your estimate of the current market value shown.

(c) If used to produce income give:

TYPE PROPERTY USED TO PRODUCE INCOME	NAME AND ADDRESS OF MORTGAGE OR LIEN HOLDER, IF ANY, OR "NONE"	AMOUNT OF MORTGAGE OR LIEN OUTSTANDING

(d) Are you the sole owner(s)? ☐ YES ☐ NO
If "No," give the names and addresses of the other owners, their percentage of ownership and identify the property interest.)

NAMES	ADDRESSES	PERCENT	PROPERTY INTEREST

(e) Are you free to sell the property or your interest in it? ☐ YES ☐ NO
(If "No," please explain.)

16. If you are unmarried and age 18, 19, 20 or 21, are you regularly attending school now or do you expect to attend school in the next 12 months? ☐ YES ☐ NO
(If "Yes," give:)

NAME AND ADDRESS OF SCHOOL	NAME OF PERSON AT SCHOOL TO CONTACT ABOUT YOUR ATTENDANCE	DO YOU HAVE AN IDENTIFICATION CARD OR TUITION RECEIPT?

COURSES TAKEN OR TO BE TAKEN	HOW MANY HOURS DO YOU ATTEND OR EXPECT TO ATTEND SCHOOL?

17. If you are under age 18 (or a student under age 22) and unmarried, do you live with your parent(s) either on a full time basis or when not in school? ☐ YES ☐ NO
(If "Yes," information may be needed about the income and resources of your parent(s).)

YOUR AUTHORIZATION

	YOUR ANSWER	SPOUSE'S ANSWER
18. Do you give your permission for the Social Security Administration to check any statement you made on or in connection with this redetermination and to ask your employer(s) for information about your wages?	☐ YES ☐ NO	☐ YES ☐ NO

YOUR RESPONSIBILITIES

	YOUR ANSWER	SPOUSE'S ANSWER
19. Do you agree to tell the Social Security Administration immediately if there is a change in your income or resources, address, living arrangements, family size or composition, family income or resources, or if you will be absent from the United States for 30 consecutive days or more?	☐ YES ☐ NO	☐ YES ☐ NO
20. Do you agree to tell the Social Security Administration immediately if there is a change in the income and resources of _____ whose income and resources may be deemed to you?	☐ YES ☐ NO	☐ YES ☐ NO
21. If you appear to be eligible for any payments or benefits from other sources, do you agree to file for them when notified by the Social Security Administration?	☐ YES ☐ NO	☐ YES ☐ NO
22. If you are blind or disabled do you agree to tell the Social Security Administration immediately if there is any improvement in your medical condition or if you return to work? Also, do you agree to accept available Vocational Rehabilitation services if a review of your disability or blindness by your State rehabilitation agency indicates that you may benefit from such services?	☐ YES ☐ NO	☐ YES ☐ NO
23. If you are over age 17 and under age 22, do you agree to tell the Social Security Administration immediately if there is any change in your school enrollment?	☐ YES ☐ NO	
24. Do you understand that failure to report any change could result in a penalty deduction of $25, $50 or $100 if the report is not made within 10 days after the end of the month in which the event occurred?	☐ YES ☐ NO	☐ YES ☐ NO

REMARKS. You may use this space for any explanation. If you need more space, attach a separate sheet. Enter the item number before each explanation.

REMARKS: *(continued) You may use this space for any explanation. If you need more space attach a separate sheet. Enter the item number before each explanation.*

25. Do you live at your mailing address? (If "No," give:)	YOUR ANSWER	SPOUSE'S ANSWER
	☐ YES ☐ NO	☐ YES ☐ NO

RESIDENCE ADDRESS (Number and street, City, State, Zip Code)

26. If you are filing this statement on behalf of another person give:

YOUR FULL NAME (Print)	YOUR TITLE OR RELATIONSHIP TO RECIPIENT

SIGNATURES

27. Do you affirm that all information you have given in this form is true?	YOUR ANSWER	SPOUSE'S ANSWER
	☐ YES ☐ NO	☐ YES ☐ NO

28. YOUR SIGNATURE (First name, middle initial, last name) (Write in ink)	DATE (Month, day, year)
SIGN HERE ▶	

29. SPOUSE'S SIGNATURE (First name, middle initial, last name) (Write in ink)	TELEPHONE NUMBER(S) at which you may be contacted during the day
SIGN HERE ▶	

30. MAILING ADDRESS (Number and street, apt. no., P.O. Box, or Rural Route)

CITY AND STATE	ZIP CODE	ENTER NAME OF COUNTY (if any) in which you live

WITNESSES

31. Your application does not ordinarily have to be witnessed. If, however, you have signed by mark (X), two witnesses to the signing who know you must sign below giving their full addresses.

1. SIGNATURE OF WITNESS	2. SIGNATURE OF WITNESS
ADDRESS (Number and street, City, State, and Zip Code)	ADDRESS (Number and street, City, State, and Zip Code)

SUPPLEMENTAL SECURITY INCOME IMPORTANT REMINDER	NAME	DATE
	SSN	

The amount of your Supplemental Security Income check is based on information you told us. We have checked off the things you must tell Social Security if there is any change.

You must tell us about any change within 10 days after the month it happens. If you do not report changes, we may have to take as much as $25, $50, or $100 out of future checks you receive.

Remember, a change may make your monthly payment bigger or smaller. You must also report changes in income for your ineligible husband/wife or a child who lives with you, or your sponsor or sponsor's spouse if you are an alien. You must also report changes in things of value that these people own.

▶ HOW YOU LIVE

☐ YOU ARE MARRIED. Report if:
- You get separated, divorced, or your marriage is annulled.
- Your husband or wife dies.

☐ YOU ARE SINGLE. Report if:
- You get married.

☐ YOU ARE SEPARATED. Report if:
- You and your husband/wife get back together again.

☐ YOU LIVE ALONE

☐ YOU LIVE WITH YOUR HUSBAND/WIFE, ____ CHILDREN

☐ YOU LIVE WITH YOUR PARENTS

☐ YOU LIVE WITH ____ OTHER PEOPLE

▶ You must report to Social Security if:
- You move.
- Anyone moves into or out of your home.
- You (or your husband/wife) leave your home for 30 days or longer. For example, if you enter a hospital or take a trip.

▶ HELP YOU GET FROM OTHERS

☐ Other people help you by:

- ☐ Paying your rent or mortgage
- ☐ Helping you pay your gas, electric, oil, or coal bills
- ☐ Other: _____

☐ Other people do not help you:

- ☐ Letting you pay lower rent than other people pay
- ☐ Giving you food or clothing
- ☐ Giving you money

If anyone stops helping you with the things we have checked or the amount they give you goes up or down, you must report it. If anyone starts helping you, you must report that too.

▶ INCOME

☐ You and/or _____ receive this income:

- ☐ Earnings from work $ _____
- ☐ Social Security $ _____
- ☐ Other:
- ☐ _____ $ _____
- ☐ _____ $ _____

☐ You have no other income:

- ☐ Unemployment $ _____
- ☐ Pensions $ _____
- ☐ _____ $ _____
- ☐ _____ $ _____

If any of these amounts go up or down, you must report it. If you and/or _____ start getting money from someplace else, tell Social Security about that, too. Anytime you start or stop work, you must report it.

THINGS OF VALUE THAT YOU OWN

- ☐ YOU HAVE A CHECKING ACCOUNT $ _____
- ☐ YOU HAVE A SAVINGS ACCOUNT $ _____
- ☐ YOU HAVE AN INSURANCE POLICY (Cash surrender value) $ _____
- ☐ OTHER

_____ $ _____
_____ $ _____
_____ $ _____
$ _____

- If the total amount of all of these things added together goes over $ _____, you have to report it to Social Security.
- If you sell or give any of these things away, you must report it.
- If you buy or are given anything of value, you must report that, too.

☐ You are unmarried and under 18 or under 22 and a student. Report if:

- Your parents have a change in income, a change in their marriage, or a change in the value of anything they own.
- You start or stop school.
- You get married.

☐ You are blind or disabled. Report if:

- Your condition improves or your doctor says you can return to work.
- You stop going to or refuse any vocational rehabilitation services.
- You stop going to or refuse treatment for drug addiction or alcoholism.

☐ YOU ARE A REPRESENTATIVE PAYEE. Report if the person for whom you are receiving SSI checks has any of the changes listed above.

You may be held liable if you do not report changes that could affect the SSI recipient's payment amount and he/she is overpaid.

HOW TO REPORT	YOU MAY CALL:	YOU MAY COME IN PERSON OR MAIL YOUR REPORT TO:

Collection and Use of Information From Your Statement—Privacy Act Notice

The Social Security Administration is authorized to collect the information on this statement under section 1631 (e) of the Social Security Act, as amended (42 USC 1383 (e)). While it is not mandatory, except in the circumstances explained below, for you to furnish the information on this statement to Social Security, no benefits can continue to be paid unless a periodic review of eligibility is completed by a Social Security office. Your response is mandatory where the refusal to disclose certain information affecting your right to payment would reflect a fraudulent intent to secure payments not authorized by the Social Security Act.

The information on this statement is needed to enable Social Security to determine if you continue to be eligible for supplemental security income payments. Failure to provide all or part of the information could prevent an accurate and timely decision on your continuing eligibility for benefits.

Although the information you furnish on this statement is almost never used for any other purpose than stated in the foregoing, there is a possibility that information may be disclosed to another person or to another governmental agency as follows: 1. to enable a third party or an agency to assist Social Security in determining continuing elibility to Supplemental Security Income payments, 2. to comply with Federal laws requiring the release of information from Social Security records (e.g. to the Veterans Administration), and 3. to facilitate statistical research and audit activities necessary to assure the integrity and improvement of the social programs (e.g., to the Bureau of the Census and private concerns under contracts to Social Security).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved
OMB No. 72-R1048

STATEMENT FOR DETERMINING CONTINUING ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME PAYMENTS

I understand that my response is voluntary but (1) that the information requested below is needed to determine my continuing eligibility to Supplemental Security Income and/or State supplementary payments and may result in an adjustment of my payment (2) that this information may be used in determining my eligibility for State Medicaid or social services, and (3) that no further benefits can be paid under the Supplemental Security Income and/or State supplemental programs unless this form is completed and filed as required by existing law and regulations (42 U.S.C. 1383 (e); 20 C.F.R. 416.222 and 416.705). The routine uses for the information obtained are fully explained and published annually in the Federal Register. The Social Security Administration will further explain these uses upon request.

IF YOUR NAME AND ADDRESS SHOWN ABOVE IS NOT CORRECT, CROSS OUT THE PART THAT IS WRONG AND WRITE IN THE CORRECT INFORMATION.

1. In the last 12 months, have you moved or lived at another address?	☐ Yes ☐ No
2. In the last 12 months have you spent a full month in a hospital, nursing home or other institution?	☐ Yes ☐ No
3. In the last 12 months, has anyone moved into or out of the house or apartment where you live?	☐ Yes ☐ No
4. Do you (or your husband or wife living with you) have a savings account or is your name on any savings accounts? List all Bank(s) or Savings Institution(s) _____ If Yes, Amount ▶	☐ Yes ☐ No $ _____
5. Do you (or your husband or wife living with you) have a checking account, or is your name on any checking accounts? If Yes, Amount ▶	☐ Yes ☐ No $ _____
6. OTHER THAN your checking or savings account(s), do you (or your husband or wife living with you) have any other money? (For example: cash, stocks, bonds, notes, certificates of deposit) If Yes, Amount ▶	☐ Yes ☐ No $ _____
7. Do you (or your husband or wife living with you) own or partly own any land or buildings where you do not live? (Include inherited property or any real estate with your name on the deed or mortgage)	☐ Yes ☐ No

Form SSA-8202- (1-79) (Destroy Previous Editions) (OVER)

8.	In the last 12 months, have you (or your husband or wife living with you) earned money from work?	☐ Yes ☐ No
9.	Does any person NOT LIVING WITH YOU give you any money or help pay your bills?	☐ Yes ☐ No
10.	Do you (or your husband or wife living with you) receive a private pension or a pension or annuity from a Federal, State or local government? (DO NOT COUNT Social Security, SSI, welfare, food stamps, VA, Railroad or Black Lung benefits.)	☐ Yes ☐ No
11.	In the last 12 months, have you (or your husband or wife living with you) received support payments, rental income, or any other money or payments? (DO NOT COUNT Social Security, SSI, welfare, food stamps, VA, Railroad or Black Lung benefits.)	☐ Yes ☐ No

BE SURE YOU HAVE ANSWERED ALL QUESTIONS AND RETURN THIS IN THE ENCLOSED POSTAGE PAID ENVELOPE

You must notify the Social Security Administration immediately if there is a change in your address, living arrangements, family size or composition, income, resources, or if you leave the United States(50 States, District of Columbia, or Northern Mariana Islands) and expect to be absent for a full month.

If you are receiving payments as a blind or disabled individual, you must also report any improvement in your medical condition or your return to work.

I agree to notify the Social Security Administration immediately if any of the above events occur. I am aware that the Social Security Administration may check on any information I have given on this statement or have provided in connection with this statement.

I know that anyone who makes or causes to be made a false statement or representation of material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal or State law or both. I affirm that all information I have given in this document is true.

Your Signature (If you sign with an 'X', have two people witness below.) SIGN HERE ▶	Date
Husband or Wife's Signature SIGN HERE ▶	Telephone Number(s) at which you can be reached

Your statement does not ordinarily have to be witnessed. If, however, you have signed by mark(X), two witnesses to the signing who know you must sign below, giving their full addresses.

1. Signature of Witness	2. Signature of Witness
Address (Number and Street, City, State, and Zip Code)	Address (Number and Street, City, State, and Zip Code)

U.S. Government Printing Office: 1979 — 281-289/116

Mr. PEASE. Thank you very much.

I appreciate the testimony of all of our witnesses today.

Mr. Harris, you suggested the annual review could be a source of revenue needed, the savings needed to fund the cost of this bill. Would the present staff which administers SSI be able to conduct that annual review or would it be necessary to hire additional staff people?

Mr. HARRIS. It won't be necessary, I think, to hire additional staffing. There are some proposed cuts in staffing that might have to be avoided, in other words, there are about 1,600 staff slated to be cut this fiscal year and 2,200 staff to be cut next.

You may not be able to make those cuts.

Most of what we would be doing is simply recommiting resources, redirecting them.

Mr. PEASE. I see. How much of what you refer to, Ms. Kramer, as the meanness, is a result of the law? How much do we need to change the law, versus regulations that are written pursuant to the law, versus practices which are not necessarily a part of either the law or the regulations?

Ms. KRAMER. I would say that probably there would have to be more change, slightly more change in the actual practice and less in the law and regulation with the exception of the overpayment collection procedures.

That in itself is a tremendous problem. Setting that aside, the majority of the change I would think would have to come through the attitude with which we are supposed to be administering the program, and I am saying that with the thought in mind that when you do this for a number of years and you look back and see how you used to interview your claimants when they came in—and by the way they were claimants then—and they were people then and you look at the way that we are doing our work now and they are files now, they are cases now, and there are a certain number of cases which must be cleared in a certain period of time—that is a different way of looking at things.

Mr. PEASE. Do those instructions come down to you from the Commissioner of Social Security?

Ms. KRAMER. There are no written formal instructions regarding clearance of cases and working on a particular workload in a particular period of time.

What I am referring to is the unwritten but very real pressure that workers are put under to do just that and I am afraid I shall have to be very frank. It is due to merit pay and it is due to somebody's pay goals being measured in terms of getting so many cases out in a certain period of time.

Mr. PEASE. All right, thank you. Mr. Moore, do you have any questions?

Mr. MOORE. No, Mr. Chairman, thank you.

Mr. PEASE. Well, thank you very much to all of our panel members. We appreciate your testimony.

Mr. PEASE. Our final panel this afternoon will consist of Ms. Alice Quinlan, director of governmental relations of the Older Women's League; James Gashel, director of governmental affairs of the National Federation of the Blind; and Sam Sadin, director of

the Brookdale Center on Aging, Hunter College, New York City, accompanied by Jack Landers, staff attorney.

Are we missing some of our witnesses? No, here you are.

Mr. Gashel, would you raise your hand so I know who you are. Ms. Quinlan is next, then Mr. Sadin, and Mr. Landers.

Why don't we begin with Ms. Quinlan.

STATEMENT OF ALICE QUINLAN, DIRECTOR OF GOVERNMENT RELATIONS, OLDER WOMEN'S LEAGUE

Ms. QUINLAN. Thank you, Mr. Chairman.

I am Alice Quinlan, director of government relations of the Older Women's League. We appreciate this opportunity to share with you our view on improvements in Supplemental Security Income, since income security is a key issue for our members.

Of all the issues women face in their retirement years, none is more critically important than retirement income. Although income security in old age is theoretically sustained by Social Security, pensions and savings, women depend primarily on Social Security and, as a last resort, Supplemental Security Income.

About half of the country's nearly 4 million SSI recipients are aged, including those aged who receive benefits as blind or disabled persons; SSI is of concern to aging advocates. And because fully 74 percent of those aged recipients are women, it is of particular concern to older women.

On the whole, men and women in the United States experience aging very differently. Older women live longer, have lower incomes and higher poverty rates than men. In 1982, the median annual income, total money income from all sources, for persons over age 65 was $9,188 for men, and $5,365 for women. When poverty data is shown by race/Spanish origin, the special vulnerability of older women of color is particularly evident. For example, black women are five times more likely to be in poverty in old age than white men are. Nearly one of two black women and one of three Spanish-origin women over 65 have incomes below the official poverty level.

About 70 percent of the elderly poor are women. Elderly households headed by women on average have particularly low incomes. Because of greater longevity, women of all races tend to outlive their spouses, and to live alone in their later years. In fact, 85 percent of all surviving spouses over age 65 are female, and 80 percent of the 7.5 million elderly who live alone are women. Data also shows that the "old-old" tend to have lower incomes than the "young-old" do.

This demographic sketch certainly is congruent with data about aged SSI recipients. As the following tables show, two-thirds of all aged SSI recipients are over age 75, as I indicated, and nearly three-fourths are women.

I would like to note that over 90 percent of aged persons receiving federally administered SSI live in their own households. Finally, about 80 percent of aged SSI recipients receive payments as individuals, only about 20 percent are receiving payments as couples.

What all this adds up to is that the typical aged SSI recipient is a low-income woman over aged 75 who maintains her own household and who lives alone.

We commend your interest in making modest improvements in the SSI program on behalf of these aged, along with needy blind and disabled persons. The Older Women's League strongly supports H.R. 5341, both as an antimeanness measure, and as a much needed update of resource limits and some benefit standards. While OWL supports the entire package of 26 changes, I will in this brief time focus on several provisions of special concern to older women.

Protection against Medicaid loss. Each month we receive up to 1,000 letters from midlife and older women seeking help or information. No topic comes up more often among women under 65 than the lack of access to affordable health care. They are not yet old enough for Medicare and they are unable to pay for private health insurance.

Among the most tragic are disabled widows on SSI disability because when they reach age 60 and are forced to take OASI benefits, very often they become ineligible for SSI and thus lose Medicaid.

Because the women are unable to meet the strict Social Security disability definitions applied to widows, they have a 5-year gap in health insurance coverage from age 60 to 65.

I would like to tell you about one disabled widow who wrote us earlier this year. She needs total knee replacements and has been on crutches for the past 5 years. The problem wasn't diagnosed when she was on SSI. At 60 she began receiving widows benefits and lost her Medicaid. With an OASI benefit of around $435 a month she cannot afford private insurance but even if she could, companies have told her that she has a preexisting condition and they would not insure her in any event.

She wrote to us, "I need some answers and I just don't know where to get them. I cannot get Medicare until March 1985, how can I get an operation on my knees?"

How, indeed.

In some States women like her would be eligible for medically needy coverage under Medicaid but the passage of H.R. 5341 would ensure that SSI recipients such as this woman would have the choice to retain SSI and with it Medicaid benefits even though they become eligible for Social Security or Railroad Retirement.

Turning to the topic of more equitable treatment of separated spouses, as you are well aware, the current maximum benefit for couples is 50 percent that of individuals. Current law requires a period of 6 months of living apart before SSI benefits will be recomputed on an individual basis. The proposal to reduce this waiting time to 1 month would help in two very significant ways. For those relatively few SSI couples who separate, a more adequate individual benefit would be available to both parties relatively soon.

In a second situation regarding women who are separated and divorced late in life and frequently find themselves plunged into poverty, although they may have no income at all, for SSI eligibility purposes they are assumed to have full access to the former couple's assets for 6 months. These women would be able to establish SSI eligibility 5 months sooner than under present law.

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Since over 70 percent of persons residing in nursing homes are women, we obviously have considerable interest in the provisions of this legislation dealing with medicaid facilities. The personal needs allowance has been discussed at length by other witnesses. I would like to note that by my calculator, given the inflation that has taken place in the last 10 years, merely to keep even that person needs an allowance of $55 based on the rate of inflation over the past 10 years.

I would like to point out another provision that relates to Medicaid nursing home patients which has not been mentioned and that is the proposal that full SSI benefits be continued through the second month of institutionalization.

We very strongly support this provision. The current reduction of SSI benefits to $25 after just 1 month in an institution forces residents to give up all hope of returning to independent living arrangements. This is especially true for women, who are much less likely than men to have a spouse to assist their transition back home.

The outreach and survey provisions of H.R. 5341 are very important. I want to mention a study that was contracted out by SSA last year that showed that almost half the persons eligible for SSI but who were not receiving SSI benefits said they had never even heard of the program before. Almost 80 percent of the persons eligible but not receiving SSI were women, a vastly disproportionate number. There are millions of elderly, a disproportionate share older women, who are not served by a program intended to help them. It is essential to try to find out why and to take appropriate action to remedy this situation.

Finally, I would like to address provisions related to the clarity of SSI information. That subject has not been touched on this afternoon. We believe that many people who receive SSI don't really understand how it works at all. This feeds into instances of overpayment based on, for instance, interest income or gifts.

Several months ago we received a letter from a California woman illustrating both of these problems. The owner of the trailer court where she is a tenant wanted to construct an office building on the site. He provided relocation allowances to tenants as an inducement for them to vacate. He assured her he had checked with Social Security and it was perfectly all right for her to accept this relocation allowance. She accepted the allowance, and of course became ineligible for SSI, although it was later reinstated. The interest she earned on the retroactive payment caused her assets to exceed the $1,500 limit. Her daughter wrote to us saying the woman has now become despondent to the point of suicide.

Purging SSI of the worse catch-22 provisions, increasing the resource limits, and providing explanations and notices in clear and simple English will go a long way toward addressing these problems.

The Older Women's League wishes to express gratitude to the chairman and other cosponsors for their support. We urge the Members of the House to support speedy enactment of H.R. 5341. That concludes my formal testimony, but I would like to add that a number of other national women's organizations will be endorsing

our testimony and I request that we be permitted to add their names to this statement for the record within the next few days.

Mr. PEASE. Without objection, we will do that.

Thank you very much, Ms. Quinlan.

[The prepared statement and attachment follow:]

STATEMENT OF ALICE QUINLAN, DIRECTOR OF GOVERNMENT RELATIONS, OLDER WOMEN'S LEAGUE

Mr. Chairman, members of the Subcommittee. I am Alice Quinlan, Government Relations Director of the Older Women's League. We appreciate this opportunity to share with you our view on improvements in Supplemental Security Income, since income security is a key issue for our members. The Older Women's League, the country's first national membership organization for older women, was founded in October 1980, and now has more than 10,000 members nationally, and chartered chapters in 30 states. Through education, research and advocacy, we work for changes in public policy to eliminate the inequities women face in their later years.

Of all the issues women face in their retirement years, none is more critically important than retirement income. Although income security in old age is theoretically sustained by Social Security, pensions and savings, women depend primarily on Social Security and, as a last resort, Supplemental Security Income.

Since about half of the country's nearly 4 million SSI recipients are aged (including those aged who receive benefits as blind or disabled persons), SSI is of concern to aging advocates. And because fully 74% of those aged recipients are women, it is of particular concern to older women.

On the whole, men and women in the United States experience aging very differently. Older women live longer, have lower incomes and higher poverty rates than men. In 1982, the median annual income (total money income from all sources) for persons over age 65 was $9188 for men, and $5365 for women. When poverty data is shown by race/Spanish origin, the special vulnerability of older women of color is particularly evident. For example, Black women are five times more likely to be in poverty in old age than White men are. Nearly one of two Black women and one of three Spanish-origin women over 65 have incomes below the official poverty level.

About 70% of the elderly poor are women. Elderly households headed by women on average have particularly low incomes. Because of great longevity, women of all races tend to outlive their spouses, and to live alone in their later years. In fact, 85% of all surviving spouses over age 65 are female, and 80% of the 7.5 million elderly who live alone are women. Data also shows that the "old-old" tend to have lower incomes than the "young-old."

This demographic sketch certainly is congruent with data about aged SSI recipients. As the following tables show, two-thirds of all aged SSI recipients are over age 75, and nearly three-fourths of aged SSI recipients are women.

[Total number equals 1,515,400]

Percentage distribution of aged adults receiving federally administered SSI payments by age, December 1983

Age	Percent
65 to 69	12.9
70 to 74	21.0
75 to 79	27.7
80 or older	38.3

Percentage distribution of aged adults receiving federally administered SSI payments by race and sex, December 1983

	Men	Women
Total	26.0	73.9
White	13.7	41.5
Black	5.5	17.4
Other	1.9	3.2
Unknown	4.9	11.8

Source: Unpublished SSA data

In December 1983, over 90% of aged persons receiving federally-administered SSI were living in their own households. (Of the remainder, 4% were in another's household, and 5% were in institutional care covered by Medicaid). Finally, about 80% of aged SSI recipients receive payments as individuals; only about 20% are couples. The typical aged SSI recipient, therefore, is a low-income women over age 75 who maintains her own household and lives alone.

We commend the Subcommittee's interest in making modest improvements in the SSI program on behalf of these aged, along with needy blind and disabled persons. The Older Women's League strongly supports HR 5341, both as an "anti-meanness" measure, and as a much needed update of resource limits and some benefit stand-

ards. While OWL supports the entire package of 26 changes, in the remainder of our testimony, I will focus on several provisions of special concern to older women.

PROTECTION AGAINST MEDICAID LOSS

Each month we receive up to 1,000 letters from midlife and older women seeking help or information. No topic comes up more often among women under 65 than the lack of access to affordable health care. Not old enough for Medicare, but unable to pay for private health insurance, these women are typically divorced or widowed and without any coverage.

Among the most tragic are disabled widows receiving SSI disability, who are forced to apply for Social Security (OASI) benefits at age 60. Because of the size of those benefits, very often they become ineligible for SSI, and thus also lose Medicaid. Because they are unable to meet the stricter Social Security disability definition applied to widows, they have a five-year gap in health insurance coverage, from age 60 to age 65, often with terrible consequences.

That is certainly the case for the disabled widow who wrote us earlier this year; she needs total knee replacements and has been on crutches for the past year. The problem hadn't been diagnosed when she was on SSI; at 60, she began receiving widow's benefits and lost Medicaid. With an OASI benefit of $434 per month, she can't afford private health insurance, but even if she could, companies say she has a pre-existing condition, and will not insure her.

Whe writes, "I need some answers and I just don't know where to get them. I can't get Medicare until March 1985. . . . How can I get an operation on my knees?"

In some states, women like her could be eligible for "medically needy" coverage under Medicaid. But the passage of HR 5341 would insure that SSI recipients such as disabled widows would have the option to retain SSI—and with it, Medicaid benefits—although they become eligible for Social Security or Railroad Retirement Benefits.

MORE EQUITABLE TREATMENT OF SEPARATED SPOUSES

As members of this subcommittee are well aware, the current maximum SSI benefit for couples ($472) is 150% that of individuals ($314). Current law requires a period of six months of living apart before SSI benefits will be re-computed on an individual basis. The proposal to reduce this waiting time to one month would help in two significant ways.

For those relatively few jointly eligible SSI couples who separate, a more adequate individual benefit would be available relatively soon. In a second situation, women who are separated and divorced late in life frequently find themselves plunged into poverty. Although they may have no income at all, for SSI eligibility purposes, they are assumed to have full access to the former couple's assets for six months. These woman would benefit by being able to establish SSI eligibility five months sooner than under present law.

MEDICAID FACILITY PROVISIONS

Since over 70% of persons residing in nursing homes are women, we want to specifically note two provisions of HR 5341 that impact on SSI recipients who are nursing home residents. The personal needs allowance for SSI recipients, which has not been increased since 1974, should surely be increased to $35. In fact, to keep pace with inflation over the past ten years, the allowance would have to be $55. We hope safeguards will be put in place to insure that this allowance is passed through to residents.

Second, we concur that full SSI benefits should be continued through the second full month of institutionalization, if not longer. The current reduction of SSI benefits to $25 after just one month forces residents to give up all hope of returning to independent living arrangements. This is especially true for women, who are much less likely to have a spouse at home to assist them, after a period of hospitalization for instance, than men are.

OUTREACH/SURVEY PROVISIONS

The outreach and survey provisions of HR 5341 are very imortant. A study contracted by SSA last year showed that almost half of the persons who were eligible for SSI, but not receiving benefits, said they had never heard of the program. Almost 80% of the persons who are eligible but not receiving SSI were women.

There are millions of elderly, a disproportionate share of them older women, for whom SSI was intended, but who are not served by the program. It is essential to try to find out why, and to take appropriate action to remedy this situation. OWL believes that untold thousands of women forego SSI as a source of much needed retirement income because the thought or the experience of applying for a "welfare" program beings such a sense of failure and humiliation. A survey of current and potential recipients, including their perception of the program, and an ongoing SSI outreach effort by the Social Security administration, is a very good beginning.

CLARITY OF SSI INFORMATION

If half of those eligible but not receivng SSI have never heard about the program, I suspect that half of those who are receiving SSI don't really understand how it works. This can be seen in instances of overpayment based on interest income or gifts.

A letter we received several months ago about a California woman illustrates both problems. The owner of the trailer court where she was a tenant wanted to construct an office building on the site. He provided relocation allowances to tenants as an inducement to vacate, assuring her he had checked, and this was acceptable to Social Security. She became ineligible for SSI, although it was later reinstated. Then the interest she earned n the retroactive payment caused her assets to exceed the $1500 limit. Her daughter wrote that the woman has now become despondent to the point of suicide.

Purging SSI of the worst Catch-22 situations, increasing the resource limits, and providing explanations and notices in clear and simple English will go a long way toward addressing these problems.

The Older Women's League commends you, Mr. Stark, for your leadership on these amendments, and expresses gratitude to the chairman and other co-sponsoring subcommittee members for their support. We urge your colleagues in the House to support the speedy enactment of HR 5341. Thank you very much.

The statement submitted by the Older Women's League in support of HR 5341 is endorsed by the following organizations: American Association of Univeristy Women; Center for Community Change; Center for Women Policy studies; Center on Budget and Policy Priorities; Children's Foundation; Church of the Brethren, Washington Office; Disability Rights Education and Defense Fund; League of United Latin American Citizens (LULAC); Mexican American Legal Defense and Eduational Fund; National Association of Social Workers; National Black Child Development Institute; National Council of Senior Citizens; National Federation of Business and Professional Women's Clubs; National Institute for Hispanic Children and Families; National Women's Conference Committee; National Women's Law Center; National Women's Political Caucus; Service Employees Internatonal Union, AFL–CIO; United Methodist Church, Women's Divison, Off. of Public Policy; Villers Advocacy Associates; Women's Equity Action League; Women's Legal Defense Fund; YWCA of the USA, National Board.

Mr. PEASE. Next we will hear from Mr. Gashel.

STATEMENT OF JAMES GASHEL, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL FEDERATION OF THE BLIND

Mr. GASHEL. Thank you very much.

I am James Gashel, director of governmental affairs for the National Federation of the Blind. In my statement I ask your consideration for several specific recommendations which we have made in the context of H.R. 5341. I would like to touch in summary fashion on these and ask the full statement appear in the record.

Mr. PEASE. Without objection.

Mr. GASHEL. Provisions relating to treatment of income. In addition to the items contained in H.R. 5341, we strongly urge including modifications of the basic unearned and earned income exclusions under SSI used to determine eligibility. The amounts which were originally enacted are still in effect, that is $20 and $65 respectively on the unearned and earned income.

For persons with only earned income the amount is still $85.

This has been in effect for a long time, even before the SSI program started. It was that way in the aid to the blind at the State welfare level.

The income exclusions are especially significant to blind and disabled people who might be encouraged to seek employment. That is the thrust of our statement dealing with several features which relate to work incentives.

Raising these income levels can help people become encouraged to seek employment and thereby either reduce involvement in SSI or be eliminated from the rolls altogether. Allowing people to have certain income without penalty of losing subsistence truly does work as a work incentive. Conversely, without a reasonable amount of economic base to operate from, recipients are forced to use their SSI checks and their small amount of outside income, if any, simply to meet the most pressing everyday living needs.

There is just no money left over for extra and nonroutine expenses such as those inevitably involved in a job search, for example.

Although not addressed in H.R. 5341, the erosion of the income exclusions has occurred just as much as it has with respect to the resource exclusions and other areas of SSI.

We urge that these income exclusions be raised to take into account inflation since 1974 and that they be indexed annually so that their value will be retained in the future.

Second, in my written statement we commented on the significance of raising the resource limits, Mr. Chairman, and as they are modestly done under H.R. 5341. Again we believe the full value of these limits should actually be restored and certainly that they should be indexed so that again we will not be back in the same situation of having to replace their value several years down the road. Forcing low-income blind and disabled people to be among the poorest of the poor simply deprives these individuals of the resources which they need to escape from poverty. Cash in reserve is absolutely essential to purchase such things as aids or tools to be used in making one's way into a trade, and helping to back their efforts toward self-support.

Limits are necessary. That is clear. Any limit one sets is bound to be arbitrary but the limits should allow for reasonable reserves not only to meet emergencies but also to encourage people to be adventuresome and to venture forth to back their efforts to support themselves.

Third, continuing our emphasis on work incentives for the blind and disabled, Mr. Chairman, we strongly support the provisions of title IV of this legislation giving persons an option to continue receiving SSI if eligible even though they may also qualify for Social Security disability insurance or railroad retirement.

It is an ironic phenomenon that occurs that by working and earning small amounts of money people also earn Social Security credits and thereby qualify for Social Security disability insurance.

Blind and disabled people under age 65 are then faced with the complete loss of medical assistance in the Medicaid Program as they lose entitlement to SSI and are forced to convert to Social Security disability roles.

Extending the option then to continue SSI rather than converting reasonably addresses this inequity by allowing people to have the freedom of choice to choose which program they wish to continue to participate in.

Four, we deal with the situation of overpayments and underpayments. We wholeheartedly endorse the effort we see in the bill to grapple with the perennial problem of overpayments and underpayments in the SSI Program.

Most notable is the need to reform SSA's policy of suspending benefits altogether in cases of overpayment in order to recover the overpayments. This is an unrealistic punitively aggressive approach that SSA has adopted. Even when very often the cause of the overpayment is an error made by the SSI Program or by its employees. The program is complex enough that a lot of errors are bound to be made.

Then, too, it is my experience that the overpayment notices themselves are often in error. Yet, beneficiaries are expected to cooperate gladly in surrendering their entire check which makes up their entire means of self-support.

Five, as a miscellaneous matter, Mr. Chairman, we raise something which is not attended to in H.R. 5341, but ought to be. It deals with SSA's 10-day rule for requesting an appeal in order to forestall the planned action that is announced in the printed notice. Under optimum conditions this barely allows enough time for anyone to receive the notice and determine what kind of an appeal or what sort of action is in order.

But more importantly the 10-day rule is especially harsh and unrealistic for blind and disabled people who may not independently be able to read SSA's printed notices. Blind people of low income, for example, have infrequent access to readers who can read these notices, especially when it comes to reading their private mail. It is reasonable for us not to want either the neighbor next door or a total stranger to be reading these items so people have to have readers and that is going to be—that will be less frequent than a sighted person would be able to handle the notices.

Thus we recommend, Mr. Chairman, actually splitting the 60-day time period which is allowed for appeals into two components, the first being a period of 30 days during which if an appeal is made either verbally or in writing that the action would not be taken; and the second half of the period remaining with the action being taken but the appeal is still timely.

As an additional component, we recommend that individuals who have a documented need for verbal notification that a notice is on its way be given oral notice. This should not replace the written notice.

Mr. Chairman, I think without going into the details of the other items contained in my statement I will stop at that and thank you for the opportunity to present these views today.

[The prepared statement follows:]

STATEMENT OF JAMES GASHEL, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL FEDERATION OF THE BLIND

Mr. Chairman, my name is James Gashel. I am Director of Governmental Affairs for the National Federation of the Blind. My address is 1800 Johnson Street, Balti-

more, Maryland 21230. I appear today representing the National Federation of the Blind, a nationwide membership organization of more than 50,000 blind persons. I also appear before you today in a broader context to represent and express the concerns of blind and disabled persons who are beneficiaries or potential beneficiaries of the SSI program.

Since people who are blind are designated as one of the three categories groups who may comprise the eligible recipient population under Titlel XVI of the Social Security Act, the National Federation of the Blind played an active role in expressing our needs to Congress during consideration of H.R. 1, which led to enactment of the Supplemental Security Income Program in the 92nd Congress. Our strong interest in keeping the SSI Program on track to achieve its original purposes and goals has continued unabated. On occasion, where possible, we have been able to alter certain requirements of the regulations implementing Title XVI in order to make SSI more responsive to the actual needs of the clientele. On other occasions during the past ten years, we have become involved in either supporting or opposing legislation to modify various statutory provision governing eligibility and the amount of benefits available under SSI. In one instance, as we reviewed proposals submitted to Congress by the Carter Administration, we found it necessary to mount a strong defense to preserve SSI's categorical, aid to aged, blind, and disabled persons from being swept away in a general tide of welfare reform. We defended SSI at that time and still do because this program has a clearly essential mission to help needy aged, blind, and disabled persons provide for their basic subsistence.

Ten years have now elapsed since the federalizing of the cash assistance programs into SSI. The bill which is now pending before this subcommittee (H.R. 5341) is the product of the past ten year's experience in observing the SSI program's operation and the effect of many of its statutory requirements, implementing regulations, or administrative practices. The resulting bill is a very necessary but extremely modest package of amendments designed to update certain eligibility features of the SSI program and to make other changes which will simplify its administration. H.R. 5341 is not a wholesale reform measure. It is more in the nature of a fine tuning instrument. The bill call for no major restructuring of the SSI program either in concept or specific statutory provisions. In our view, the time is at hand for Congress to enact a modest series of SSI improvements including many of those found in H.R. 5341. Enacting SSI improvements will say to the aged, blind, and disabled that our nation is committed to keeping their principal financial assistance program up to date with changing needs of the population which Congress originally intended to serve. Because this is an income maintenance program, it is inevitable that various economic and social trends will gradually alter many conditions and assumptions upon which the original legislation is based. This is a compelling reason among many others for Congress to consider a fine tuning bill for SSI from time to time.

Mr. Chairman, I am keenly aware that several witnesses will testify on various specific provisions of the SSI Equitable Improvements and Reform Amendments of 1984. I shall not attempt therefore to cover ground which may be well addressed by other witnesses. I will confine my remarks to those specific proposals which are of greatest interest to the population I represent and make additional recommendations which I hope this subcommittee will consider in reporting a final package of legislative changes.

(1) PROVISIONS RELATING TO TREATMENT OF INCOME, TITLE I

As a general matter, we support the proposals in Title I of H.R. 5341 relating to treatment of income. However, the concerns of blind and disabled persons relating to outside income from sources other than SSI are not addressed at all. As it is currently written, the bill proposes no change in either the unearned or earned income exclusions provided for in Section 1612(b)(2)(A) and Section 1612(b)(4). As enacted in 1972, the unearned or earned income exclusion was and remains the first $20 of monthly income and the earned income exclusion was and remains the first $65 of monthly income. For an individual or couple having only earned income, the Social Security Administration will not count the first $85.

It would be hard to overemphasize the critical importance of these basic income exclusions. They parallel provisions which were in effect under aid to the needy blind in all of the state welfare programs prior to 1974. The first earned income exclusion, enacted nearly forty years ago required states to allow needy blind persons to earn at least $50 in a month before any reduction in cash assistance. Considering that forty years later the amount of excluded earned income will not be greater than $85, a reasonable increase in this limit is long since in order.

Maintaining certain amounts of excluded income is desirable, especially for blind and disabled persons. The aim of thousands in these categories is to remain on SSI only temporarily while they attempt to become self-supporting. Income from sources other than SSI is for these individuals essential to building a small economic base. A decision to work or not to work (or more fundamentally, whether to seek work at all) often depends upon some degree of minimum financial well-being and a feeling of security.

Viewed another way, poverty breeds poverty. If blind or disabled recipients perceive that their efforts to better their economic circumstances by working will earn them nearly immediate reduction or loss of cash assistance, they will tend to remain idle since this brings financial security. In this way, a policy of severely constricting outside income tends to create an SSI dependent population. This is especially counterproductive in the case of the blind and disabled, when other laws and federally aided programs are attempting full integration of the handicapped into our nation's workforce.

Mr. Chairman, there is truly a compelling need to harmonize the requirements, most notably the income standards now in effect under SSI, with the national policy of encouraging blind and disabled people to go to work. WE wholeheartedly endorse the latter objective and know firsthand how the limitations on income under SSI can pose a direct conflict. This leads to our recommendation that Congress restore the full value of the income exclusions (both earned and unearned) provided for in the original SSI legislation. It might be instructive to examine how the income exclusions have declined in value in comparison to the annually indexed federal SSI standard payment amounts. For example, in 1974 the exclusion under Section 1612(b)(2)(A) for earned or unearned income was 14 percent of the monthly benefit for individuals. Now it is only 6 percent of the standard payment amount for individuals. Also, the exemption of earned income under Section 1612(b)(4) was 46 percent of the federal payment amount for individuals, whereas now it has deteriorated to 20 percent. It is important to bear in mind the relationship between these income exclusions and the monthly payment amount, since beneficiaries must calculate how much income they can have which is not counted in comparison to the check they can receive without income.

As I have already described, we believe that the rationale for the basic income exclusions was sound in the original act. Accordingly, their full value should be restored and maintained. For this reason, we also support future annual indexing of the income exclusions in order that they will maintain the same proportionate relationship to the benefit levels that they had when Congress originally set up the program. Full restoration of the income exclusions in terms of 1984 dollars would call for $43.80 of exempt monthly earned or unearned income and $142.35 of exempt monthly earned income. These revised income exclusion levels are based on a 119 percent inflation factor experienced in our country since January 1, 1974. Indexing in the future would prevent these vital provisions from losing their value once again.

(2) PROVISIONS RELATING TO RESOURCE LIMITS, TITLE II

H.R. 5341 has several excellent and much needed improvements in how resources affect eligibility for SSI. We support these. We are particularly interested in eliminating the rigidity factor present in current law, where exceeding the meager resource limits by even a small amount means recipients are charged with overpayments and often required to pay back far more than the amount of their excess resources. Limiting the overpayments as called for in H.R. 5341 is just and equitable.

Section 204 of the bill proposes to increase the amount of allowed resources from $1,500 for individuals and $2,250 for couples to $2,000 and $3,000 respectively. While this is obviously some improvement, to the extent that it represents movement in the right direction, we favor fully restoring the original limits now substantially eroded by inflation since 1972. In addition, these amounts should be indexed annually so their full value stays constant in the future.

Bear in mind, Mr. Chairman, that the resource limits established in SSI in 1972 were never overly generous. In fact, they were less in some cases than comparable limits in several aid to the needy blind state welfare programs. But, again, we stress that the blind and disabled have a particular need for more reasonable resource allowances. I have already mentioned how essential it is for someone who is poor but able and desirous of doing better to have a small economic base to work from. Such individuals need more than just enough to put food on their tables and shelters over them. This is where allowed resources (such as savings to achieve particular goals) become especially important and where severe limits on such endeavors become dev-

astating. How can anyone save to acquire tools and devices useful in beginning to pursue a trade, for example? Saving to obtain special adapted aids needed by blind or disabled people is often impossible under current resource limits. Travel expenses to pursue employment opportunities or to attend short-term training classes or seminars cannot be covered for fear of completely eliminating any reserves held for emergencies.

There is no dispute that the SSI resource limits were originally designed to restrict participation in the program to those who are actually poor. However, continuing these strict limits is a strong influence in creating a class of SSI dependents who (because of the limits placed on them) never acquire enough resources to venture forth in quest of opportunities for self-support. Limiting resources, as in present law, will certainly insure that only the poorest of the poor collect benefits. But, Congress should forge a new trend in SSI to help people move from poverty into self-support. Permanently improving the resource limits as suggested is a good place to begin that process.

(3) PROVISIONS RELATING TO ELIGIBILITY, TITLE IV

Without attempting to comment on all four proposals in this title, Mr. Chairman, I want to highlight Section 403, concerning the disadvantage of applying for other programs thereby losing eligibility for SSI. We strongly support the proposed option for blind and disabled persons to continue SSI eligibility even if they could qualify for Social Security or Railroad Retirement benefits. We are all too familiar with circumstances arising under current law where persons must give up SSI eligibility when they become entitled to receive Social Security Disability Insurance benefits.

This often occurs for blind and disabled persons if they make a positive response to SSI's work incentive features and earn Social Security credits by the small amount of work they obtain. A quarter of coverage for Social Security purposes will be credited for earnings of only $390 in a calendar quarter, and four quarters of coverage will be awarded when annual earnings reach $1,560. Once a blind or disabled SSI beneficiary has enough quarters of coverage due to even small amounts of work, the Social Security Administration must process a disability claim and convert the individual in question from Title XVI to Title II benefits. This will often mean an increase in cash assistance although the precise amount will depend upon individual variables.

Mr. Chairman, we are particularly concerned about the most predictable consequence of this conversion from SSI to SSDI benefits—that is, the immediate cessation of Medicaid. This is a powerful disincentive for many thousands of blind and disabled people who depend upon a continuous flow of medical services at a cost they can afford. Will Medicare provide the same level of assistance? It is doubtful. But before anyone can find out, there is at least a two-year waiting period. During this time, if a blind or disabled person is forced to leave the SSI rolls entirely, there will be no medical assistance whatsoever. For persons who have chronic conditions (for example thousands of blind diabetics), enforcing the conversion to Social Security benefits is needlessly rigid. Moreover, the denial of medical assistance is a cruel reward for an individual who has attempted to improve his or her situation by doing some amount of productive work. For these reasons we urge you to adopt a more flexible policy in the SSI program, allowing persons who would be disadvantaged by a conversion to Social Security to remain on the SSI rolls.

(4) OVERPAYMENTS, UNDERPAYMENTS, AND BENEFIT REDUCTIONS, TITLE V

There are several points here regarding overpayments, underpayments, and benefit reductions that desperately call for attention. A relatively recent phenomenon in the SSI program is the practice of the Social Security Administration to recover overpayments by withholding the full amount of SSI checks due and payable until any overpayment is satisfied. Yet, in the vast majority of instances, this is a harsh and unrealistic recovery rate which defeats the purposes of the SSI program.

In the experience we have, overpayments are not the result of fraud or abuse of the system. More often than not they arise from SSI's many complexities and not infrequently from errors made by SSA employees. Still, it is the aged, blind, and disabled beneficiaries who suffer the harshest financial consequences when out of the blue an overpayment notice arrives. All of a sudden these recipients are at loggerheads with SSA because they are faced with a payment demand they cannot afford to meet. This is how the severe recovery rate creates an adversarial relationship and gives rise to many appeals or requests for waivers that might otherwise be avoided. It is in this circumstance, more than most, that SSA is perceived as mean-spirited, interested more in balancing its own books than in truly helping people

meet their daily living needs. Mr. Chairman, it is obvious to us that guidance from Congress is needed, and we strongly support the proposal in Section 501 of H.R. 5341.

Likewise, we recommend the approach taken in Section 505 of the bill as a better means of sorting out overpayment and underpayment issues and allowing recipients a fair chance to defend themselves against overpayment allegations. Concerns of this sort are particularly acute for blind and disabled SSI recipients who have fluctuating incomes often due to periods of work. In the experience I have over several years, representing SSI recipients in resolving disputes and overpayments, it is virtually impossible for SSA to maintain completedly accurate payment amounts when income due to employment changes periodically. Thus, overpayments and underpayments are inevitable even when recipients promptly report. In such circumstances, SSA should not be allowed to assume that its overpayment findings are correct and make recovery from the amounts not yet paid. To do so frustrates the waiver and appeal rights extended by law to beneficiaries.

(5) MISCELLANEOUS MATTERS, TITLE VII

The bill addresses clarity of materials and forms, readability of notices, outreach, and similar matters, all intended to improve SSA's responsiveness to the particular clientelle served by SSI. One area that remains largely untouched is preserving SSI payment amounts during appeals. Current provisions allow SSA to take the action described in any notice if a request for reconsideration or appeal is not filed within ten days. Even so, the law permits an overall sixty-day appeal period.

Our experience is that ten days is definitely not an adequate amount of time for recipients to receive, understand, and determine how to respond to planned action notices affecting their benefits. Many blind people, for example, do not have frequent access to sighted persons who can read their written notices. If a notice is not expected, it may go unattended for as long as two weeks or more. By the time it is read, SSA has already made the changes called for in the notice, assuming there will be no appeal.

A more equitable approach, Mr. Chairman, would be to extend SSA's ten-day rule to thirty days, during which the planned action will not be taken if an appeal is timely made. After this initial thirty-day filing period, others who are not as concerned about preserving benefit amounts during an appeal will still have an additional thirty days as currently provided in the sixty-day appeal period under present law. As a matter of additional protection, we also recommend the use of a verbal alerting system for persons whose visual or physical disabilities prevent them from readily using or understanding the printed notices. Under this arrangement, SSA would be required to honor the request of any recipient who can document a need for verbal notification as a supplement to the printed notices.

Mr. Chairman, we believe the foregoing changes and many others contained in H.R. 5341 would substantially improve the SSI program. It is essential that Congress take such steps from time to time to assure that the commitments originally made are not lost due to changing social and economic circumstances. We support the structure and concepts which form SSI's firm foundation. However, we are aware of needed repairs and believe that H.R. 5341, together with the modifications we have suggested, is an excellent instrument for modest and equitable improvement. Mr. Chairman, I appreciate the opportunity to share these views with the subcommittee today and stand ready to assit further, if possible, as the legislative process goes forward. We commend you for holdings these hearings and urge action in this Congress to enact this modest improvements measure.

Mr. PEASE. Thank you very much, Mr. Gashel.

Mr. Sadin.

STATEMENT OF SAM SADIN, DIRECTOR, BROOKDALE CENTER ON AGING, HUNTER COLLEGE, NEW YORK CITY, ACCOMPANIED BY JACK LANDERS, STAFF ATTORNEY

Mr. SADIN. Thank you very much for the opportunity to appear today, Mr. Chairman. I would like to thank the committee members and the staff members who prepared the material in this bill. For many of us who have worked in this field since passage of the SSI legislation, it begins to address some of the worst inequities

confronted by clients whose total assets were $1,510 and who received an overpayment notice.

We are thankful to have this legislation prepared which will be of great help to older and disabled persons.

The list of what appears to be technical and detailed changes in the law seeks to correct the harm done to human beings who are hurt if this legislation is not passed.

It is difficult for me to convey the trauma and the anguish in the phone calls we receive or visits we make to clients who have received an overpayment notice. In an effort to try to calm their fears, we try to determine the facts, and then try to assist them in dealing with the alleged overpayment.

We are engaged at the Brookdale Center on Aging at Hunter College in New York City in research, the training of professionals, training of students, and in publications.

In the course of this work we have decided to become involved in administrative representation of SSI recipients who receive overpayment notices or who were denied eligibility so we may more effectively educate our students publish our materials and improve our research.

I trust I can convey to you the urgency with which we would like for you to act on behalf of people who are hurt, old, blind, disabled, ill, isolated, frail, the list is endless, and in the lives of these people the SSI check represents survival. It is at the lowest possible level to permit people to survive, especially in cities like New York where rents escalate much faster than the SSI benefit does and quite often it may become a question of going without adequate food.

Then, of course, there is the difficulty faced by people who receive the notices are then unable to comply, or unable to understand. I will deal in a couple moments with examples and samples of some of the notices which have been received by SSI recipients.

Finally, I do want to raise the question with the committee of the need to know that what we have here represents a great step forward for the SSI recipients and for the members of organizations which serve them but we would like you to know that we hope this is the beginning of a process which over a period of time will result in basic improvements in the system and we welcome this as a first step.

But the need for further work I am sure is understood by all of us here.

What I would like to do is to read to you the summaries of three or four cases and bring to your attention some overpayment notices which have been received. I will be brief but they will summarize many of the formal statements which we might make.

The names which we give you will be fictional but the facts are not.

Mary Miglio was a 71-year-old woman legally blind. She was assaulted in 1971 and has never fully recovered. She now receives $234 a month as a social security pension and about $160 SSI benefits, that includes the State supplement.

When she originally applied for SSI in 1974 she brought in a life insurance policy which she owned and which at that time had only a small cash value. During the intervening years when she appeared

for recertification SSA personnel did not ask about the insurance policy nor was she required to bring it in. Last year, however, she brought in the insurance policy which was determined now to have a cash value in excess of the statutory maximum for SSI recipients. She was removed from SSI and received an overpayment notice in the amount of $3,282.33.

Mrs. Miglio neither knew nor understood that a life insurance policy had an increasing cash value. I would suggest many of us in the field were not quite aware of that. She has now been restored to the SSI rolls and her appeal with reference to the overpayment is pending as a result of the work which Jack Landers, who is the staff attorney on our program.

Now I refer to an actual case that occurred, the case is *Jenkins* v. *Schweiker*. Mary M. Jenkins, 77-year-old widow was charged with an overpayment of $6,630.18, because she had more than $1,500 in the bank account. The evidence indicated that Mrs. Jenkins was schizophrenic, had little awareness of her surroundings, that she was unable to comprehend simple concepts and that the statutory limit of $1,500 had never been explained to her.

The amount of the excess funds in the account, the amount over $1,500, varied from $247.20 to 4 cents.

Despite these facts, the administrative law judge and the district court upheld the finding she owed $6,630.18. The district court judge, Judge Briant, stated and I quote, "The absurdity of the result here cries out for justice" but concluded that the remedy rested with Congress. And that is what your bill is trying to do today.

I cannot bring you a better example of the kind of case of which we speak. The decision was later reversed.

Florence Grand lives alone. She is diabetic, suffers from heart disease and high blood pressure, and is legally blind. She has been receiving SSI assistance since 1980. In 1980 while she was recovering from having had her leg amputated she was informed by a social worker that the SSI resource limit was about $2,300. Relying on this information she permitted her bank account to rise to $1,746, almost entirely as a result of accumulated interest. I might add by the way that that accumulation of interest occurred because the neighbor took care of her bank account, the neighbor having no way of knowing that $1,500 was the maximum limit.

This fact was discovered in the redetermination process. Mrs. Small was promptly removed from SSI and received an overpayment notice in the amount of $2,174.97 for the period January 1981 to March 1983.

It required 2 months to get Mrs. Small back on SSI, and another 2 months to have the matter resolved at the district office level where she was found to be without fault. Jack Landers was instrumental in getting that done.

Mrs. Kowalski lives alone and suffers from a variety of physical ailments. She is past 65 with poor memory and emotional problems. She claims she was never informed of the $1,500 limit and that the various SSI/SSA workers simply told her she was eligible.

From October 1981 to June 1982 her bank account exceeded $1,500 by amounts that varied from $11.02 in October 1981 to $50.84 in April 1982, with the entire amount of overage resulting

from interest accumulations. Her entire check was withheld to repay the alleged overpayment.

We managed to obtain her restoration to the SSI rolls so she was not driven to destitution. The case is still going through the appeals process.

Mr. PEASE. Can I interrupt just a second? We have a vote on and we will have to recess the hearing for about 5 or 10 minutes.

Mr. MATSUI. Could I make a suggestion? Will there be anybody that has any questions instead of keeping these people here?

Mr. SADIN. I wonder if I might have a few moments?

Mr. MATSUI. I may be the only one coming back.

Mr. SADIN. I will be happy to speak to you, sir.

Mr. PEASE. We will just recess then.

[Recess.]

Mr. MATSUI [presiding]. We will reconvene the subcommittee meeting.

We have Mr. Sadin who was testifying and who will resume his testimony at this time. I believe you were on the fourth example, were you not?

Mr. SADIN. I finished my case examples, I now want to deal with the question of notice, clarity or lack thereof, and confusion in information which occurs as a result of an alleged overpayment. I am careful to use the word "alleged" because even the person who spoke for the Government-employees in favor of the legislation referred to overpayments. I would suggest, sir, that they are always alleged until they are proven and our record of having those alleged overpayments reversed in at least the 75 to 80 percent of the cases we have handled would indicate that they are really not overpayments until you have exhausted all possibilities. Most older people they never even get the opportunity to exhaust all the possibilities because there are simply not enough attorneys around nor are they told where to get attorneys in the notice of overpayment.

I would like to refer to the first one, which is a handwritten notice, barely legible, in which the crucial information is handwritten and I will send it to you as an exhibit, sir. Then I read under it, "We have determined that you have received $3,861.70 more in supplemental security income payments than you were due."

Then comes the handwritten portion, and then "Please refund the overpayment of $3,861.70 immediately. Make your check or money order payment to the Social Security Administration, and mail it in the enclosed envelope."

Mr. MATSUI. I find it hard to even read.

Mr. SADIN. My only comment is I am glad they sent the enclosed envelope; that is the only obstacle to have sent back $3,681 from a person whose assets can't exceed $1,500 and can't exceed the $395 New York income maximum.

We will stipulate the rest of the statement is one which provides what ought to be provided, except the language certainly ought to be more simple.

However, the paragraph that begins, "If within 30 days," and ends with the statement, "Please get in touch with this office if you disagree with the proposed rate of repayment." Not if you disagree with the repayment, but with the "proposed" rate of payment.

I think that is fairly important as a difference.

Mr. MATSUI. Where is that? I missed that.

Mr. SADIN. This paragraph here.

Mr. MATSUI. In the bold print, yes.

Mr. SADIN. Yes, this was a notice dated July 29, 1982, and the withholding of repayments, withhold the entire payment will begin in September 1982, giving the person barely 30 days.

Mr. MATSUI. What happens in the case of a person who has a sight problem as Mr. Gashel, as he has testified. Would a person just get this notice as well and no other notification?

Mr. GASHEL. I can testify to that. That is true. You just get that notice.

Mr. SADIN. That is correct, sir.

The next one I would like to read deals with language.

We have determined that you have received $5,519.06 more in Supplemental Security Income payments than were due for the period April 1982 to July 1983. You received benefits to which you are not entitled because your countable resources, consisting of your available countable resources, exceeded $100, the maximum limit for an individual.

So they define the problem in terms of exactly the same language. They are saying that your countable resources consisting of your countable resources—now that hardly tells anybody anything other than that you have countable resources.

Mr. MATSUI. I guess you are trying to distinguish between countable resources and available resources, but as a former practicing lawyer, I couldn't tell you what that means. Maybe you can interpret it for me.

Mr. SADIN. You are the only former practicing attorney among all the former SSI recipients whom we know.

Mr. MATSUI. Right. I am saying even as a former practicing lawyer, I don't understand it, is my point.

Mr. SADIN. There is one which we have here——

Mr. MATSUI. Why are they trying to say your countable resources consisting of your available countable resources? What is different between available countable resources and countable resources?

For the record, I would just like to know.

Mr. SADIN. If I remain mute, it is because I don't know the answer, sir.

Mr. MATSUI. This individual—was there any litigation on this or anything? What eventually occurred? Maybe you don't know what occurred.

Mr. SADIN. I don't know offhand.

Mr. LANDERS. What case is it and I can tell you. This is now under appeal, sir.

Mr. MATSUI. Seems like the recipient has a pretty good case.

Mr. SADIN. Let me read one where there was a favorable holding, a case Jack Landers represented a client in, which was one of the cases we read earlier.

I will only read the closing portion of it, although I may read the first paragraph, because again, the language is hardly one which would be understandable by most people.

After a careful review of your case, it was found that, one, due to your age and financial impairments, your ability to comprehend and act in accordance with reporting responsibilities was deleteriously affected.

That is a pretty tough statement.

Go to the end.

Since you were found to be without fault, there can be a finding of against equity and good conscience, so as to mitigate the actual amount of the overpayment, the amount of the overpayment for the period January 1, 1981, to March 1983 is $674.97, not $2,174.97, as previously reported.

Since you are in current payment status, the inability to repay the overpayment is deemed to apply. So since you have proven you are without fault and having the ability to repay the prior denial of your request for the waiver of May 3, 1983, is hereby reversed.

I wish the record would show you shaking your head, Mr. Matsui.

Mr. MATSUI. The record may show my head shaking and in a state of perplexity.

Mr. SADIN. I wonder if anybody in this room, even if it were filled with lawyers, could say what the outcome of this case was?

Mr. MATSUI. I can't.

Mr. SADIN. We won; the payments were reversed; Jack Landers handled the case. That was the 82-year-old woman who lived in Harlem who had a leg amputated.

There are many others. So the sections of the law which deal with noticies and clarity, in my opinion, are crucial.

Mr. MATSUI. What about the issue that Mr. Gashel raised in terms of those that would have difficulty reading a formal notice coming in the mail? Do you have recommendations on that?

Apparently that is not in any legislation.

Mr. SADIN. We have not addressed that question carefully but we will try to get something in writing to you as soon as possible.

Mr. MATSUI. I certainly would like it and I would imagine some other committee members would, also. Perhaps Mr. Gashel could further—you have your statement for the record, and we certainly will read over that, but if we need further information from you, we will certainly request it from you.

Mr. SADIN. I don't want to impose on the committee's time. I will bring to an end a good deal of what we have to say here and let that stand.

I do want to make one or two recommendations with regard to one or two sections. The section on clarity and readability of notice, that section 506 and 704 ought to be based on some analysis of the possible reading level of the recipients of SSI.

Dr. Landers, who has been a superintendent of schools in the city of New York, recommends a fourth grade level. The notices should be constructed to that level or below, keeping in mind, again, of course, the fact that many people are impaired emotionally or psychologically and many are in their seventies and eighties.

Section 701 and 702, which deals with outreach and utilization, expects that the study will be completed by April 1, 1986. We would urge you to move that forward to an earlier date if at all possible. We believe that is too long to wait on this.

And perhaps the legislation could make provision that whoever makes the study that that provision be made for public hearings. We would like an opportunity to speak to that question as would many other people.

Mr. MATSUI. What date would you propose?

Mr. SADIN. Eighteen months from date of enactment, whatever that be. That may be 3 of 4 months less than the period we are talking. But I leave that to the best judgment of the committee and the staff to decide whether that is possible.

On section 303, dealing with the personal allowance, we would respectfully suggest, sir, that the $35 is too low to begin with and that the $50 is too low. We have many people in nursing homes and we just believe that that is too small an amount and if you can find some extra dollars for that, that certainly would be a big help.

Finally, I would like to state that we appreciate the effort being made here to eliminate some of the worst injustices and we look forward to the committee's work to increase the eligibility amounts; increase the benefit amounts; and at least to begin to provide, a basis for those Americans who are unable to provide for themselves something beyond amounts of income below the poverty level and resources which don't reflect true needs.

So we are thankful for what you have done but we wish you would do more and do it soon.

Thank you very much, sir.

[An attachment to the statement follows:]

CASE 2: OVER $1,500 RESULTING FROM LIFE INSURANCE

2. THE CASE OF MARIE MIGLIO

Marie Miglio is a 71 year old woman who is legally blind. She was assaulted in 1971, and has never fully recovered from the "accident", as she calls it. She now receives $234 as a Social Security pension and about $160 as an SSI benefit. When she originally applied for SSI benefits about 1974, she brought in a live insurance policy which she owned, and which at the time had only a small cash value. It was photostated and returned to her.

During the intervening years, when she appeared for recertification, SSA personnel did not ask about the insurance policy, nor was she required to bring it in. Last year, however, she brought in the insurance policy, which was determined to have a cash value in excess of the statutory maximum for SSI recipients. Mrs. Miglio was removed from SSI and received a bill for $3262.33 for all SSI benefits she received during the time when the cash value of the policy, added to her bank account, exceeded $1500. Mrs. Miglio neither knew nor understood that her life insurance policy had an increasing cash value.

Mrs. Miglio has now been restored to SSI rolls, and her appeal with reference to the overpayment is pending.

CASE 5: OVER $1,500 INTEREST

COURT DECISIONS RELEVANT TO SSI OVERPAYMENTS

1. There appear to be very few cases dealing with the issue of SSI overpayments. The most recent case is *Jenkins v. Schweiker* (S.D.N.Y., 80 Civ. 5926, Brieant, J. 9/15/82, rev. 2d Cir., No. 82-6273, 6/3/83).

Mary M. Jenkins, a 77-year old widow, was charged with an overpayment of $6,630.18 because she had slightly more than $1,500 in a bank account. The evidence indicated that Mrs. Jenkins was schizophrenic and had little awareness of her surroundings; that she was unable to comprehend simple concepts; that the statutory limit of $1,500 was never explained to her; and that the amount of excess funds in the account (i.e., over $1,500) varied from $.04 to $247.10). Despite these facts, the Administrative Law Judge (ALJ) and The District Court upheld the finding that she owed $6,630.18. The District Court (Judge Brieant) stated that "The absurdity of the result reached here cries out for Justice," but concluded that the remedy rested with Congress.

At the Circuit Court level, the brief of the appellants attacked the decision on the grounds that: the method used to compute the amount of overpayment conflicts with the statute; the decision was not based on substantial evidence.

The Circuit Court of Appeals disregarded the first argument (which is the basic argument attacking the procedures of the Secretary) and reversed, basing its decision solely on the ground that the decision of the ALJ was not based on substantial evidence.

Thus, this Court of Appeals decision has little if any precedential value. In addition, the three Judges (Oakes, Pierce, and Peck) attached a note to the decision forbidding it to be "reported, cited or otherwise used in unrelated cases before this or any other court," because "it does not constitute a formal opinion of this court."

CASE 6: OVER $1,500

Ms. Florence Grand lives alone in a Harlem tenement. She is a diabetic, suffers from arteriosclerotic heart disease and high blood pressure; and is legally blind. In 1980, one of her legs was amputated. She has been receiving SSI assistance since 1980.

In 1980, while she was in the hospital recovering from the leg amputation, she was informed by a hospital social worker that the SSI resource limit was about $2,300. Relying on this information, she permitted her bank balance to rise to $1,746, almost entirely as a result of accumulated interest.

This fact was discovered during the usual "redetermination". Mrs. Small was promptly removed from SSI and received a bill for $2174.97 for the period from January 1981 to March 1983. It required two months to get Mrs. Small back on SSI and another two months to have the matter resolved at the District Office level (see attached "Note of Reconsideration"). Yet all the facts were in the files of the District Office; its personnel just never bothered to check.

Supplemental Security Income
Notice of Reconsideration

From: Department of Health and Human Services
Social Security Administration

55 N 125 ST
NY NY 10027

Date: 8-24-83

FLORENCE V. [redacted]
[redacted]
MORNINGSIDE STA.
NEW YORK, NY 10026

Social Security Number: [redacted]
Reconsideration Filed: 5-13-83

AUG 26 1983

AFTER A CAREFUL REVIEW OF YOUR CASE IT WAS FOUND:

1- THAT DUE TO YOUR AGE AND PHYSICAL IMPAIRMENTS YOUR ABILITY TO COMPREHEND AND ACT IN ACCORDANCE WITH REPORTING RESPONSIBILITIES WAS DELETERIOUSLY AFFECTED.

2- THAT YOUR AFFADAVIT OF 4-11-83 AND SUBSEQUENT VERIFICATION OF YOUR ALLEGATIONS BY CONTACT WITH MR. MAHABIR ESTABLISHES THAT YOU WERE MISINFORMED ABOUT THE SSI RESOURCE LIMITATION OF $1500 BY AN OFFICIAL SOURCE.

FOR THESE REASONS YOU ARE FOUND TO BE WITHOUT FAULT IN THE MATTER OF THE OVERPAYMENT OF WHICH YOU WERE NOTIFIED 3-11-83;

AND

SINCE YOU WERE FOUND TO BE WITHOUT FAULT THERE CAN BE A FINDING OF AGAINST EQUITY AND GOOD CONSCIENCE SO AS TO MITIGATE THE ACTUAL AMOUNT OF THE OVERPAYMENT. THE AMOUNT OF THE OVERPAYMENT FOR THE PERIOD JANUARY 1981 - MARCH 1983 IS $674.97 NOT $2174.97 AS PREVIOUSLY REPORTED.

AND

SINCE YOU ARE IN CURRENT PAYMENT STATUS THE INABILITY TO REPAY THE OVERPAYMENT IS DEEMED TO APPLY.

SO: SINCE YOU HAVE PROVEN YOU WERE WITHOUT FAULT AND HAVEN'T THE ABILITY TO REPAY THE PRIOR DENIAL OF YOUR REQUEST FOR WAIVER OF 5-3-83 IS HEREBY REVERSED.

Important: See other side for an explanation of your appeal rights and other information

From SSA-L8455-U2 (6-78) (Formerly SSA-8455A)
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CASE 7: OVER $1,500 INTEREST ONLY

Ms. Kowalski lives alone in the Brighton Beach section of Brooklyn. In addition to disabling rheumatoid arthritis, Ms. Kowalski suffers from the following ailments; blind in right eye, barely sees with left; detached retina; cataracts; circulatory problems; obesity. She is past 65 years of age, with a poor memory and emotional problems. She claims that she was never informed of the $1,500 limit; and that the various SSA workers simply told her that she was eligible.

From October 1981 to June 1982, her bank account exceeded $1,500 by amounts which varied from $11.02 in October 1981 to $50.84 in April 1982, with the entire amount of coverage resulting entirely from interest accumulations.

Her entire check was withheld to repay the alleged overpayment. We managed to obtain her restoration to SSI rolls, so that she was not driven into destitution. This case is still going through the appeals process.

Mr. MATSUI. Would you have a comment, Mr. Landers?

Mr. LANDERS. I would like to thank you for the opportunity to be here. I could add many examples but it is late and I think you have enough.

But there was an interesting question raised earlier about the difference between statutory enactment and administrative procedures and the question was asked by the previous chairman, when does one end and the other begin? What can we do about what might be called administrative immorality? How much can we legislate against it?

My answer to that would be that wherever possible, the Congress should include in the legislation a statement of intent, something that would indicate what it intends to do. For example, a statement by the Congress of its expectation that the language will be so clear that most of the people who receive SSI would be able to understand it, would certainly be very helpful.

Nobody can possibly write a notice that will be understandable by everybody who gets it. That is not within the realm of any possibility. But you certainly can express your intent.

Let me give just an example of that that applies to your home State which I understand is California.

Mr. MATSUI. Right, it is.

Mr. LANDERS. Last year the Congress passed Social Security legislation which included a requirement that HHS carry on an outreach effort for SSI and it would be included with Social Security checks.

After 3 months of constant badgering of the Social Security Administration, I got a copy of the notice that it was intended to send.

Much to my amazement, that notice included as the outer limits of those people who were eligible for SSI, only the figures that applied to the national subsistence level, that is in New York State and in California, every place, it was only $334. But in California, the people get $150 more than that. In New York State, they get $61 more than that. In other words, all the people who fell in between would not have gotten the notice.

A lot of us were up in arms and we protested, and after a great deal of battling and in which by the way, your staff and some of the people here were very active, we managed to get HHS to reverse itself.

I think again that wherever possible, if HHS, for example, is going to carry on an outreach effort, it ought to include some kind of clear statement as to the intent of Congress, what is the injus-

tice that Congress hopes to remedy? That will give us lawyers on the outside something to battle with.

Thank you very much.

Mr. MATSUI. I thank you.

I think you have made some very good statements so that we do have a legislative history if we do, and hopefully we will, adopt this kind of legislation.

So I appreciate it very much.

On behalf of Chairman Ford and all the other members of the subcommittee, I have to say that I think the record is very clear that some action has to be taken, and taken soon. We would like to put you all out of business, frankly, so we won't have these problems any more, and we will do what we can to work with you.

I frankly understand that this piece of legislation is one we feel that we can move this year. We certainly will make every effort to do that. It is obviously a glaring problem and we are going to have to resolve it.

Thank you.

[Whereupon, at 3:55 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT OF THE CENTER ON SOCIAL WELFARE POLICY AND LAW

The Center provides legal assistance to applicants for and recipients of AFDC and SSI on a nationwide basis and has been extensively involved in finding remedies to SSI problems since the inception of the program. In our view, the provisions of H.R. 5341 would be an important step forward. They would remove or minimize some of the current inequities in the determination of eligibility and benefits and would put an end to certain arbitrary policies that have been adopted by the Social Security Administration.

SECTIONS 201, 501, AND 506—CALCULATION OF OVERPAYMENTS CAUSED BY EXCESS ASSETS AND IMPROVEMENTS IN RECOVERY PROCESS

Of all the problems addressed in the bill, the current agency practices with respect to recovery of overpayments seem to be causing the most extensive damage to the greatest number of poor people. In 1982, the agency radically altered the policies which it had followed since the inception of the SSI program in 1974—policies that were in many instances modelled on policies that had previously been following in the OASDI program—and initiated a practice of completely withholding monthly benefits in order to recover prior overpayments. While a lower recovery rate may be set if the individual vigorously pursues a request for such reduction, that information is barely communicated to the individual, if at all, while the threat of complete withholding is emphasized.

In any case where SSI benefits constitute all or a major part of an individual's monthly income, total withholding almost guarantees eviction, malnutrition, or worse. The agency has yet to suggest why it thinks it is reasonable or fair to even suggest a complete withholding of benefits in a program such as SSI where the recipient by definition has only sufficient monthly income to meet bare subsistence needs. At best, it is a waste of administrative resources to place the burden on that individual to come forward and ask for a reduced recovery rate rather than starting the process with a rate that is reasonable in light of the individual's known circumstances. At worst, it is a heartless abuse of power.

The change in agency practices with respect to recovery rates execerbated the problem of deficiencies in the notices sent to recipients to advise them of overpayments and other correspondence related to the overpayment process. As noted above, these notices often fail to explain that the individual can request that the agency recover at a lower rate than the full withholding proposed. They are usually equally barren of any explanation of how the amount of the purported overpayment was calculated. As a result, recipients and their advocates have no way of verifying whether the overpayment finding is correct. Recipients are faced with a bold demand for repayment and threats of impending hardship without any way to chal-

lenge the agency's finding. In many respect, recipients do not even have the portections that are afforded to them by federal law in private debt collections.

These problems could be greatly ameliorated by enactment of sections 501 and 506 of H.R. 5341. Limiting the recovery rate to no more than 10% of countable income recognizes that there is no way that individuals subsisting on SSI eligibility level incomes could even approach meeting their basic daily living needs on less than 90% of the those levels. Looking to countable income as opposed to the benefit payment insures equity among individuals with similar total countable income levels who receive varying amounts of their income from SSI.

We are concerned, however, that serious damage could result from restricting the limit to non-fraud cases. Excluding fraud cases from the 10% limit not only leaves them open to 100% withholding of benefits but is likely to encourage the agency to do exactly that. While fraudulently causing an SSI overpayment is a matter of grave concern, it is questionable whether starvation is the appropriate governmental response. It is difficult to see how any public purpose is served by depriving an admittedly needy individual of the means needed to attain subsistence and it is noteworthy that the criminal law which is specifically designed to respond to fraudulent behavior refrains from imposing such punishment. Indeed there can be no question that most Americans would be outraged by the notion of imposing starvation and other physical privation as a sanction for criminal conduct.

Improvements in the notices of overpayment will not only aid the recipient, but they could also help the agency. If staff have to go through the process of explaining how they calculated the overpayment they may be more alert to their own errors and reduce the number of erroneous determinations. Oftentimes the need to explain a decision is the best means to insure that it is carefully and fully thought through.

Section 201 of the bill also provides much needed relief from the problems caused by the calculation of the amount of an overpayment in cases where recipients have excess resources. As that provision recognizes, an individual who exceeds the resource allowance by carrying an overage of $15 in his savings account is not thereby enriched by the amount of his montly benefit for each month in which the "excess amount" is in his savings account. He can only spend the $15 once and therefore is only "better off" or overpaid to that extent, $15.

SECTION 203—EXCLUSION OF UNDERPAYMENTS FROM RESOURCES FOR 12 MONTHS

The extension of the time period for expenditure of retroactive benefit payments is a salutory recognition of the hardship that recipients endured during the period for which they were underpaid and of the difficulty that many elderly people have in giving up "savings", albeit forced savings by underpayment.

The very fact of a period of deprivation—deprivation resulting from underpayment—can impede a recipient's ability to spend the retroactive benefits to improve her living conditions. Long periods of time at even lower levels of income than SSI eligibility standards can establish patterns of going without needed food or household goods that do not change immediately simply because of receipt of a lump sum that makes better living available. The experience of such deprivation can also heighten the fear of impoverishment which inhibits expenditures out of "savings" under the best of conditions and make it virtually impossible for the individual to quickly dispose of such sums. Indeed, even disposition within a year may be difficult and this makes it critical that the individual be clearly and fully advised of the consequences of retaining some or all of the retroactive check so that she does not unknowingly act against her interests.

SECTION 104—ELIMINATION OF TRIPLE COUNTING OF INCOME

The exclusion of temporary income from retrospective budgeting where such income is received in the first month of a period of eligibility offers some amelioration of the harms that have been caused by the imposition of this system. Under current agency practice, if an individual has some outside income in the month in which she first becomes eligible for SSI benefits, that income will be counted in determining the amount of the individual's benefits for that first month of eligibility and for each of the following two months even though the information provided at the time of application establishes that the income will not recur after the first month.

Obviously the practice of counting income three times over is absurd and is not what Congress ever intended. Indeed, § 1631(c) as originally enacted in 1981 permitted the agency to base benefit amounts for each of the first two months on income in those months rather than income in past months, and the agency chose to ignore such option adhering only to the Congressional mandate to base the benefit determi-

nation in the first month on income and circumstances in that month. Even more remarkably, the agency continued its practice despite further Congressional action to provide relief in such situations—the enactment in 1982 of § 1631(c)(4) which permits the Secretary to base benefit determinations on current income and circumstances whenever she determines that "reliable information" is available with respect to current circumstances. In what appears to be a growing pattern of selective implementation, the Secretary has yet to issue any procedures or regulations to exercise this option. (The history of this enactment is instructive on the general question of mandates versus options. Thus, in 1982 this committee, recognizing the damage being wrought by retrospective budgeting, proposed to mandate a return to current needs budgeting in SSI in all situations. In a compromise with the Senate, current needs budgeting was mandated only in the case of increases in social security benefits and the Secretary was given the option of using it in other appropriate situations.)

Clearly the relief provided in this bill is due. Unfortunately the current proposal provides relief from the Secretary's inaction only to applicants and those who become reentitled after a period of ineligibility. As Congress recognized in 1982, however, recipients also need relief from the inflexible application of retrospective budgeting. A recipient who receives a July benefit reduced by an amount equal to income he received in May and who is no longer receiving such income is no more able to buy food with money he doesn't have than is an applicant.

SECTION 504—PRESUMPTIVE ELIGIBILITY PAYMENTS

The proposal to expand presumptive eligibility payments for the aged is a long overdue protection against delay in the applications process. While the number of nondisabled and non-blind applicants who experience delays in applications determinations has declined over the past few years, any delay in the receipt of aid is too long for individuals who do not apply for benefits until their monthly income is already below SSI eligibility standards. While the current limit of $100 for one month may not have seemed totally inadequate in 1972 when the monthly benefit for an individual was set at $130, it can clearly not be seen as a true presumptive eligibility payment in a program that recognizes that an individual requires a minimum of $314 a month for subsistence.

There is some reason to doubt, however, that enactment of this change will have the beneficial purpose intended. Thus, the provision would give the Secretary an option as to whether to provide such presumptive eligibility payments and, as noted above, the Secretary does not seem eager to exercise options that increase benefits. Indeed, she has made but scant use of the current option to provide presumptive eligibility payments to the disabled and blind, § 1631(a)(4)(B). It would seem therefore that the only way to assure that presumptive eligibility benefits are available is to mandate that they be given.

The proposed amendment would also leave intact one major limitation on the provision of assistance to presumptively eligible elders, namely, the requirement that the individual be "faced with a financial emergency." Certainly a determination that the individual presumptively meets the conditions for entitlement for SSI is itself a determination of extreme financial need since it includes a finding that the individual's available income and resources are below the SSI eligibility standards. However, the agency uses the "financial emergency" requirement to deny aid to persons who have any cash resources, thereby requiring them to spend down below allowable resource levels while they await a decision on their applications. The agency also restricts the amount provided to what it considers to be required to meet what it finds to constitute the "emergency". It seems likely therefore that these practices will continue so long as the "financial emergency" requirement remains in the statute.

SECTION 204—INCREASES IN RESOURCE ALLOWANCES

The current resource allowances are similarly out of date. They also have not been adjusted since October 1972 when they were agreed to by the House and Senate conferees on the legislation establishing the SSI program. Even if one were to assume that $1500 and $2250 were reasonable limits at that time, some adjustment is certainly long overdue in light of the almost 240% increase in the CPI since that time (from 126.6 in October 1972 to 303.5 in December 1983).

Certainly the increase proposed in this bill is modest and it is hard to imagine how any less could be contemplated. The Presidential Hunger Commission recommended allowances of $2250 and $3500 in the food stamp program. Perhaps informa-

tion yielded by the study which the bill contemplates will provide a basis for some more realistic adjustment of the SSI levels in the near future.

SECTION 301—MODIFICATION OF THE ONE-THIRD REDUCTION

The proposal to provide some amelioration of the one-third reduction imposed on individuals who live in shared households deals with an area that has been a constant source of problems for the needy aged, blind, and disabled since enactment of the program. Congress' attempt to avoid the need for individualized determinations of the value of in-kind contributions to support and maintenance has unfortunately all too often resulted in gross overvaluation and unrealistic reductions in aid.

The proposal in this bill would at least eliminate the catch 22 experienced by some applicants—because of an applicant's lack of income prior to receipt of benefits and consequent inability to contribute her full share to the household she receives reduced benefits which insure continuation of her inability to contribute her fair share. This provision will provide relief for applicants in low-income households who could pay their share of household expenses if they did not suffer a one-third reduction. Anomalously, the current system penalizes family members and friends for ever having helped out by allowing a needy individual to sleep under their roof or sit at their table, even if the helpers clearly saw themselves as only able to provide a temporary fill-in until the individual could qualify for assistance.

SECTION 502—INTERIM ASSISTANCE

The provisions of the bill related to extension of the interim assistance program might well be expanded to deal with another problem under the existing program—failure of the states to provide understandable information about how the state calculated what was due the recipient and what it is entitled to keep.

Although SSA regulations require the state to send the individual a notice which sets out how much of the SSI check that the state received from SSA is being retained as reimbursement for the interim assistance provided, SSA does not require the agency to provide any explanation or breakdown showing how it arrived at that amount. The lack of such information makes it virtually impossible for recipients to make an informed decision as to whether they agree with the agency's determination on the allocation of the check.

When the regulations were first proposed in April 1980, several commenters noted this problem and urged SSA to require that the notices include a listing of the interim assistance allegedly provided and for which the welfare agency was reimbursing itself. In the preamble to the final regulations published in September of 1981, SSA acknowledged that the suggestion "has merit" but said that it wanted to undertake a study to determine whether "a monthly breakdown of the interim assistance paid by the State to the individual is feasible and should be included in the individual's notice" before implementing such a requirement.

SSA has not yet undertaken any such study. In any cases, there does not seem to be any reason why a study is necessary since all that is required is for the welfare agency to share with the recipient the computations that the agency must have already made in arriving at its determination of the amount of the SSI due it as reimbursement for the interim assistance provided.

SECTIONS 702 AND 704—OUTREACH AND IMPROVEMENTS IN WRITTEN MATERIALS

We are concerned that the proposals to mandate outreach efforts and to assure needed improvements in the notices and other written materials provided to SSI recipients may not achieve their intended purposes. Turning first to improvements in written materials, there is nothing in the provision which would prevent the process from dragging on forever should the Secretary decide to give it a lesser priority. If a specific time limit for accomplishment of the changes is not feasible, the agency's attention to the matter might be increased by a requirement that it submits periodic reports to the Congress on the steps it is taking.

In the case of the outreach provision, the problem is whether the provision makes any real change with respect to contact with individuals who are not receiving benefits under a program administered by the Secretary. For example, the provision states that "the Secretary . . . shall (A) provide notices of the availability of SSI benefits to . . . recipients of benefits under . . . benefit programs [other than Title II] (including State programs)", but there is no way that the Secretary can send notices to beneficiaries of state programs without state cooperation and there is no provision to ensure such cooperation. Obviously states could volunteer to cooperate, but if the Secretary was willing to or able to secure such voluntary cooperation, pre-

sumably there would be no need for this provision to begin with. Similar difficulties may arise with respect to coordination with other federal agencies. State cooperation could be insured by making it a condition of participation in an appropriate federal program and cooperation of other federal agencies could be secured by a direction to them to cooperate upon request such as exists in section 1631(f) of the statute.

In addition, there are a number of steps that could be taken to facilitate inclusion of all entitled individuals in addition to notice. It might be useful to specify some of these items including: an obligation to utilize public announcements on TV and radio (before midnight) and in the press, an obligation to provide any person who inquires about possible eligibility with an informational packet containing pamphlets explaining eligibility and benefits, an application form, and an explanation of how the individual can apply and receive a formal determination and of the date by which the individual must return the application form in order to have the date of her inquiry considered as the date of application.

SECTION 101—DISREGARD OF IN-KIND ASSISTANCE

Again administrative delays may postpone if not totally thwart congressional purpose. SSA has not yet issued regulations to implement the disregard of in-kind support and maintenance other than home energy assistance despite the passage of almost two years since this provision was first enacted. As a result the provision is not being fully and properly implemented. In addition, the agency has simply postponed determination on the issue of whether exclusions that are being made are correct, thereby subjecting individuals to the possibility of subsequent overpayment determinations.

HEARING DELAYS

As the members of the Committee know, there have long been extensive delays in the hearings process which have caused serious problems for applicants and terminated beneficiaries. Litigation on this issue had been successful in securing relief in some jurisdictions but the Supreme Court, by a bare five to four vote, has now ruled in Heckler v. Day (No. 82-1371, May 22, 1984) that the federal courts cannot impose across-the-board time limits for reconsiderations and hearings. There was no dispute among the nine justices, or the Secretary, that there are long delays and that they are attributable to the Secretary's failure to administer the program properly, not to a lack of resources or to actions by applicants and recipients. The Court also did not say that time limits were not appropriate, wise, or effective, but only that the courts ought not to be imposing such time limits since Congress was clearly aware of the problem and had not adopted them.

The Supreme Court has therefore left responsibility for dealing with the Secretary's violation of the present statutory requirements for prompt reconsiderations and hearings to Congress.

Delays at all stages of the appeals process are staggering—and more than 50% of the SSI hearings result in an award of benefits. The average time from hearing request to decision for both OASDI and SSI cases is over 6 months and this does not count the time spent in reconsideration or making the initial determination. For example, the initial determination to grant or deny a disability application takes about 62 days on the average. Moreover, SSA often takes months to issue the first check after an appeal is won.

Many of the elderly and disabled persons who are ultimately determined eligible for benefits have gone many months without adequate food, and have suffered uncertainity about their future means of support. Even in termination cases where aid can now be continued until a hearing decision is rendered, individuals are forced to choose between their fear of repayment if they lose and their immediate survival needs. In addition, where aid is continued pending a hearing decision, delays can be costly for the federal government.

The delays generally are not caused by the actions of the claimants but rather result from agency errors or inefficiencies, quality assurance procedures that can interrupt the flow of cases for many months, and time consumed in obtaining further evidence. While SSA usually argues it is doing the best it can with the resources available to it, the agency has not sought significant additional resources to process cases. In addition, the delay caused by requiring an individual to request Appeals Council review is particularly inexcusable since the AC denies review in about 90% of the cases.

In 1980 Congress asked HHS to recommend time limits in OASDI (not SSI) cases, and the agency suggested a limit of 165 days for hearings. After publishing an

NPRM to this effect and receiving comments thereon, HHS adopted a final regulation in 1980 imposing such a limit in OASDI and SSI cases, but that regulation was withdrawn in 1981 before it ever took effect.

The time is now particularly appropriate for imposition of time limits on decisions or appeals because of the sharp drop in hearing requests being experienced by the Social Security Administration. The number of hearing requests in the first half of FY 1984 is the lowest that it has been in several years. During the first six months of FY 1984, only 144,029 requests were received. If this pace were to keep up, it would yield approximately 288,058 requests during FY 1984—far fewer than the 363,533 received in FY 1983 and the 320,680 received in FY 1982. Indeed, now that the moratorium on continuing disability investigations has been imposed, hearing requests can be expected to drop significantly in the second half to the year, so that the total for FY 1984 will also be well below the FY 1981 total of 281,737. Thus the agency will have a smaller caseload to work with, while at the same time it will have more ALJ's available than it did in any other than FY 1983 (as of March 1984 the average number of ALJ's on duty was 761, whereas the average during FY 1981, 1982, and 1983 was 699, 754, and 797, respectively).

SSA's ability to process hearings promptly should be promoted by many of the changes being made in the disability legislation now awaiting conference. Thus, for example, both bills impose some type of medical improvement standard which can be expected to reduce the number of terminations and therefore, one might anticipate, the number of requests for reconsiderations and hearings. Similarly, a moratorium on mental impairment reviews should reduce the number of hearing requests, at least in the near term. The focus upon better development of the record and improved notices should also improve the quality of decisionmaking at the initial stages, and therefore either reduce the number of hearings or improve the initial record submitted to the ALJ so that less development of evidence will be required at the hearing level. The continuation of the requirement that aid will be continued in medical cessation cases until the ALJ renders a hearing decision, which some may have believed would cause an increase in the number of hearing requests, does not appear to have had that effect (as demonstrated by the statistics cited above).

The feasibility and potential efficacy of time limits was demonstrated in the jurisdiction where courts issued orders imposing time limits for reconsiderations and hearings. In each case, the Secretary significantly improved her processing times and violations of the court-imposed time limit were virtually nonexistent.

The statute should provide that once a person requests review of a determination denying, terminating, or reducing SSI benefits, no more than a fixed time such as six months may elapse until (1) payments are commenced pursuant to a decision favorable to the individual or (2) a final adverse decision is rendered by an ALJ, and that judicial review of adverse decisions may be sought without first requesting review by the Appeals Council. Exception to such time limits should be made only for delays caused by the individual, and internal review procedures should not be permitted to delay processing of SSI appeals. The statute should also require HHS to report to Congress on any legislative changes that might assist it to expedite SSI appeals without compromising the ability of individuals to establish eligibilty

The statute could provide for enforcement of this requirement by requiring benefits to begin at the end of the time period if there has not been an adverse decision and to continue until a decision is made. Section 6131(c)(2) does not specify an enforcement procedure for the 90 day time limit therein, however, and adoption of the above proposed limits would be meaningful even without such specification.

Statement of Eileen P. Sweeney, Staff Attorney, National Senior Citizens Law Center [NSCLC]

I am a staff attorney at the National Senior Citizens Law Center (NSCLC). This statement is being submitted pursuant to the request of Representative Stark. I appreciate very much this opportunity to comment on H.R. 5341.

NSCLC is a national legal support center funded by the Legal Services Corporation. We provide legal services advocates with assistance in addressing the legal needs of their elderly and disabled clients. I specialize in SSI and Social Security and, as a result, am in daily contact with legal services attorneys and paralegals concerning their clients' Social Security and SSI problems.

I am very pleased to submit testimony on H.R. 5341. While its cost is extremely modest, its provisions are well-designed to eliminate numerous problems in the SSI program. Some of the problems are statutory while others are administrative. Regardless of the source, they have created a great deal of suffering and misfortune for many SSI applicants and recipients. This bill refocuses the SSI programs onto the needs of those receiving benefits and, as a result, should dramatically improve the current administration of the program.

My statement addresses many of the provision in the bill, but not all of them. Regardless, all of the provisions in the bill are needed. Please note that, at the back of this statement, behind the exhibits, labeled "Appendix 1," is a list of the recommended modifications to H.R. 5341 which are discussed in this statement.

I. Overpayment Procedures

A. Background

Since 1981, SSA has changed dramatically its approach to overpayments. As has been documented in other hearings before House Committees*, the new approach has been typified by seriously flawed notices, intimidating practices, and work incentives for SSA staff who collect the most money. Despite the statutory mandate that waivers be provided, they are vitually unheard of.

SSA staff were basically ordered to collect dollars at any cost to the beneficiary. Beneficiaries were often not told about their rights to seek waiver and, if they somehow found out, their requests are denied. Supervisors were informed that their merit pay increases would be based upon their staff's performance in this area. Staff in many offices were offered incentives for collecting the most money. Examples of the wealth of evidence regarding these actions include:

1. On August 24, 1982, the Central California Area Director for SSA informed "Merit Pay Managers" in Region IX that the proposed merit pay plan for Region IX Field Managers would include "Debt Management." [This document is attached as A]. On the second page, the "goals" for "overpayments" were to be defined in terms of "dollars" and "weeks' work on hand ratio."

The Area Director for the Maryland Social Security offices conducted a competition among the various offices and among the staff for the status of best office and "debt collector of the month." Attached are his June 18, 1982 memo listing the office standings as well as the "'Top' Individual Collectors" and the "Waivers of the Area Director Debt Collectors Award of the Month" and the "Award" certificate.** Apparently after the memo was issued, the "awards" were not implemented. However, that fact becomes irrelevant. The key here is that dollars not quality of service has been the only measure of success at SSA since 1981.

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*See "Social Security Administrative Issues," Hearing before the Subcommittee on Social Security, Committee on Ways and Means, September 23, 1982, Serial 97-83; "Implementation of Social Security Administration's Debt Collection Plan," Hearing before the Select Committee on Aging, U.S. House of Representatives, September 20, 1982, Comm. Pub. No. 97-365; "Impact of Proposals to Reduce Social Security: Massachusetts," A Briefing by the Select Committee on Aging, July 8, 1982, Comm. Pub. No. 97-366.

**These copies are taken from the exhibits to the testimony of Percy Daley, President, Local 1164, AFGE, before the Select Committee on Aging hearing, July 8, 1982, Comm. Pub. No. 97-366 (pages 31-34). Attached here as Exhibit B.

2. On November 5, 1981, Sandy Crank, SSA's Associate Commissioner for Operational Policy and Procedures, issued a memo regarding "SSA debt management." (Exhibit C) On the first page, underlined, Mr. Crank stated:

> "Development and implementation of the plan is predicated on a shift in SSA's philosophy regarding overpayment resolution; i.e., emphasis on recovery (rather than waiver or write-off) and on the speed of that recovery."

3. In another memo, Region V (Chicago) instructed its staff that "a request for a waiver of repayment is a request for a very serious concession on the part of the government." (Exhibit D, page 5) The District Manager of the Grand Rapids, Michigan SSA office notified local legal services and social services programs on May 25, 1982 that, "In very rare circumstances, a request for waiver of the overpayment will be considered." [Not granted, just "considered."] (Exhibit E)

4. SSA's overpayment collection statistics for the Los Angeles metropolitan area, Exhibit F, for one week in July 1982, reflect just how extreme the situation has been. Of the 1661 overpayments which SSA acted upon that week in the Los Angeles metropolitan area, waivers were granted in only 26 cases. In the Watts office of SSA, SSA granted only one waiver out of 889 cases. The amount waived was $3.57.

5. SSA has trained its staff in debt collection practices utilizing videotapes of Frank Hardesty, the president of "Payco American," describing successful collection techniques. In addition, SSA's debt collection training materials review the "common excuses" likely to be given when an SSI recipient is called by a collector. (See Exhibit G) The list includes:

> "-I'm sick."
>
> "-Since my checks stopped I haven't been able to meet my living expenses, let alone repay the overpayment."
>
> "-I have too many medical bills."
>
> "-Since my SSI stopped I no longer have medical assistance and must pay my medical bills myself."
>
> "-The overpayment was not my fault."
>
> "-You stopped my disability checks because you say I'm no longer disabled, but I'm still too sick to work."

Needless to say, these are precisely the types of reasons one would expect an aged or disabled person to offer in explaining his or her inability to repay an alleged overpayment. The SSA

Manual attempts to desensitize the worker to these very human problems.

6. In February 1983 SSA issued proposed regulations which would dramatically alter the rules for when a person can seek a waiver and when one will be granted. 48 Federal Register 6354 (February 11, 1983). After significant public outcry, the final regulations have not been issued. The result is that while people can still seek waivers, SSA denies them (its current operating procedures are far more restrictive than the current regulations).

7. In January 1982, the Social Security Administration issued a notice of routine use pursuant to the Privacy Act, 5 U.S.C. §552a(e)(11), informing the public that it intended to release information in beneficiaries' case files to private debt collectors for purposes of collecting alleged Title II and SSI overpayments. 47 Federal Register 1025 (January 8, 1982). After numerous expressions of Congressional concern, SSA withdrew the proposal. However, it then proposed to conduct a demonstration project in Baltimore and San Diego. It does not appear that this has been implemented.

Interestingly, while former Commissioner Svahn was representing to the Congress that the purpose of the use of private debt collectors was to target students who had not been in school and therefore were not entitled to Title II benefits they received, the draft of request for proposals (RFP) to debt collectors included a list of the types of debt covered. The bulk of the overpayments listed were for SSI and in the $200 to $400 range.

8. SSA's "shift" in policy (see Crank memo Exhibit C) and the pressure upon staff to collect dollars has translated into some incredibly intimidating practices and notices. Such practices have included:

1. All SSI overpayment notices tell the recipient that SSA intends to withhold 100% of the person's benefit until the overpayment has been recovered. When the person calls SSA, SSA graciously agrees to a smaller rate of recovery, often resulting in recoupments of $75-100 or more monthly. The SSI recipient, relieved to have at least some money, agrees to the withholding. In some cases, SSA has discouraged recipients from seeking waivers by threatening to withhold the full 100% if the waiver is denied.

2. SSA has, in some areas, made "home visits" to SSI recipients to demand repayment. See, for example, "Affidavit of Josephine Diorio," "Social Security Administrative Issues," Hearing before

the Subcommittee on Social Security, Ways and Means, Serial 97-83, pages 159-161. SSA would do better to meet the need for home visits in other areas of SSI administration, such as applications and appeals hearings.

3. Very frightening notices have been sent to SSI recipients. In one case, the Tampa, Florida SSA office sent an 84 year old SSI recipient confined to a wheelchair a notice which stated:

NOTICE

WE HAVE NOT RECEIVED PAYMENT ON YOUR ACCOUNT. WE MUST DISCUSS THIS TODAY. PLEASE CALL ME WITHIN

48 HOURS

PHONE: 228-2832

SINCERELY,

Mrs Bennett

DEBT COLLECTION REPRESENTATIVE
DEBT COLLECTION CENTER

(Exhibit H). These may be appropriate dunning notices for private debt collectors, but they have no place in a program designed to provide income security for low income aged, blind and disabled Americans.

4. Often, SSA is at fault in creating the overpayment. This happens when staff misinform a person regarding what action to take, or fail to record information provided by the recipient regarding a change in living circumstances or in income or resources, or incorrectly compute benefits. In these cases, SSA behaves as if the recipient was at fault. It would be extremely helpful if the Subcommittee would include language in the bill which requires SSA to consider waiving the overpayment where it is at fault, before the notice of overpayment is ever issued. If SSA is at fault and the person took all actions he/she should have, and he/she is currently receiving SSI benefits, waiver should be available as a matter of course. This will eliminate many of the situations such as the one faced by Marie Dayap of Seattle, Washington, as

reported in the Philadelphia Inquirer on June 30, 1983 (Exhibit I). According to the article Mrs. Dayap "said she would sell her wheelchair to make ends meet after the Social Security Administration told her that she had been overpaid $4,013 in benefits - and would have to repay them." Apparently after the press became interested in Mrs. Dayap's plight, "the agency has said it would reconsider its order because it was at fault in the overpayment." (emphasis added) In other words, SSA knew it was at fault but sent the notice hoping that Mrs. Dayap would pay the $4,013. Unfortunately, because SSA's tactics are very intimidating to many SSI recipients, apparently including Mrs. Dayap who intended to sell her wheelchair, they will forego funds desperately needed for basic subsistence in order to repay SSA. Overpayments should not be collected at such a high price.

As a result of public outcry and Congressional scrutiny, SSA has tempered some of the most blatant manifestations of its overpayment collection practices. However, the basic underlying policy remains in place and is being implemented nationwide daily. The overpayment-related provisions of H.R. 5341 will serve to redirect the focus of the program: while overpayments are to be collected where waiver is not appropriate, both the amount of the overpayment and the manner in which it is collected will be determined by reasonable standards.

B. Review of the specific provisions of H.R. 5341 related to overpayments

1. Section 501: limitation on the recoupment rate to 10% of the person's benefit or $10.00 whichever is greater. This provision will halt SSA's current practice of withholidng 100% of the benefit in some cases and threatening to do so in many others. This provision is critical. It differs from the one included in the House Reconciliation package in one significant way: here, SSA is limited to 10% of the person's benefit or $10.00, whichever is greater, while the Reconciliation package provides for 10% of the person's income or $10.00 whichever is greater. While either approach is far better than the current system, H.R. 5341 would permit somewhat smaller recoupments for some and, as a result, is somewhat better.

Regardless of which approach is taken, it should be noted that the $10.00 minimum where waiver is not granted will work an incredible hardship on SSI recipients whose only income is the SSI personal needs allowance of $25.00 (proposed to be raised to $35.00 in this bill). Under the 10% rule, recovery

would be made at the rate of $2.50 per month (or $3.50 per month under the bill). The $10 minimum will permit a 40% recoupment at $25.00 (or 28% at $35.00). The Subcommittee should consider creating an exception to the rule for individuals receiving only this benefit. Ideally it would provide that recovery will always be waived. An alternative would be to limit monthly recovery to 10% of the benefit level and eliminate the $10.00 minimum for this group. If this modification cannot be made in the Reconciliation package, perhaps a technical amendment on the matter could be included in H.R. 5341.

2. Section 505: concurrent overpayments and underpayments. The bill prevents SSA from adjusting an underpayment against an alleged overpayment before the person has the opportunity to challenge the amount of the overpayment and/or to seek waiver of the overpayment. This provision corrects a particularly egregious abuse: SSA will have mistakenly underpaid a person at some point and then decide to offset that underpayment against a later alleged overpayment. The SSI recipient may never know of the underpayment or, at best, will be told in the notice of overpayment that the amount of the overpayment has been reduced by the amount of the underpayment. If the person seeks waiver of recovery of the overpayment, SSA will not permit him/her to seek waiver of the full overpayment. Instead, it limits relief to the amount of the overpayment which was not offset. This practice raises constitutional and statutory deficiencies which will be addressed by Section 505.

3. Section 201: limiting the overpayment where the person's resources exceed the limit. One recurring problem, addressed well in Sam Sadin's testimony before the Subcommittee, is the penalty which SSA imposes upon SSI recipients whose assets creep over the $1500 by even a few dollars. Section 201 provides one solution while the Reconciliation package provides a slightly different provision.* While either provision is more appropriate than SSA's current practice, the Reconciliation provision is more reasonable.

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*Under H.R. 5341, if Mrs. A's bank account exceeds the resource limit solely due to the accumulation of interest, she will be penalized the full amount that she is over-resources each month even though there has only been a small additional increase in the excess. If she is over $1 in August, $2 in September, and $3 in October, under H.R. 5341, the overpayment will be $6, even though she only had $3. Under the Reconciliation provision, the overpayment would be $3. While the Reconciliation provision is more equitable, either if far superior to SSA's current practice - the overpayment will be $942 (three months' benefits).

II. Overpayment Notices and the General Quality of all SSI Notices

Both Sections 506 and 704 require SSA to take steps in improving SSI notices which should dramatically improve their usefulness to SSI applicants and recipients.

Section 506 specifies the types of information which SSA must provide in its notices of overpayment. SSA's notices of overpayment often tell the person no more than that she owes a certain amount. Often this figure is inaccurate, because it is based solely upon SSA's computer records. When SSA sends the notice, it has not checked the claim file, and has no idea whether the amount it seeks is correct nor what the basis for the alleged overpayment is. This has been particularly true in the "SSI backlogged debt" project. In fact, in most cases, if the person requests more information about the alleged overpayment, SSA staff tells the person that she must first appeal (file a request for reconsideration) before the local office will obtain the file from wherever it is stored.

In addition to providing important information to the SSI recipient about how the alleged overpayment was created, how much it is, and what her rights are, the overpayment notice in Section 506 will have the valuable effect of assuring that SSA does not act to collect an alleged overpayment until it has verified in its own files that such an overpayment exists.

There are two additional requirements which the Subcommittee should consider adding to Section 506. In Ellender v. Schweiker, F.Supp. (S.D.N.Y. November 17, 1983), the district court ordered SSA to include the following information in its notices to Title II recipients of an alleged SSI overpayment:

> "...[T]he Secretary must send to all class members notices which advise them of the overpayment, the time period during which it occurred, the amount of overpayment in each time period, any prior repayments, the reason for the overpayment, appeal and waiver rights, and legal rights including the section 207(a) prohibitions and the statute of limitations." [footnote ommitted] (emphasis added)

The Ellender court specifies two additional facts not required by §506, each of which addresses a specific problem in the current system:

(a) SSA should be required to inform the person whether any portion of the overpayment has previously been repaid, by withholding from the person's benefit or otherwise.

(b) SSA has been attempting to recover many alleged overpayments that are very old, in some cases, as old as the program. SSA does this even though it could not legally go into court and sue the person for the alleged debt. The statute of limitations on civil actions by the federal government is six years. If an SSI recipient is intimidated into signing an agreement to repay now, eight or nine years after the alleged overpayment occured, that act of agreeing to repay or repaying a few dollars will reopen the period when the government can sue the person in court.* The Ellender court agreed with the plaintiffs that the notice must inform the SSI recipient "that the time period may have expired but that partial repayment or written acknowledgement of the debt may revive the expiration date," and held that the "notices lacking this legal information are constitutionally deficient." Id. It would be very helpful to recipients if the Subcommittee included this requirement in Section 506.** An even more

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*The unfairness of SSA's current position is clearly set forth in a July 1, 1982 Program Circular issued in the New York SSA Region (Exhibit J). In the circular, SSA acknowledges that there is a six year statute of limitations. It also states that the Treasury "destroys negotiated checks 6 years and 9 months after the checks are presented for payment." As a result, on very old overpayments, SSA is not able to prove that the person received the check. Despite this fact and despite the fact that it is not legal for SSA to rely solely upon its records (which reflect only that a check was sent, not that it was received or who cashed it), SSA still develops these cases for collection. "If the recipient appeals the overpayment, it is likely that an administrative law judge will reverse the decision if check copies are unavailable, however, anticipation of the reversal should not preclude proper development." In other words, because the SSI recipient is unlikely to know we can't possibly prove our case and is unlikely to persist to the ALJ level in some of these cases, try to collect the money from the poor aged, blind or disabled person anyway.

**The Ellender court also required SSA to provide notice that it is illegal for SSA to recover an SSI overpayment from a Title II benefit because 42 U.S.C. §407(a) bars assignment or attachment of benefits. The reverse is equally true: SSA cannot attempt to recoup a Title II overpayment from an SSI benefit. In Ellender, the court required SSA to provide information of this fact in its notices. Since it remains illegal for SSA to accomplish cross-program recovery of overpayments, it is not necessary for the Congress to mandate inclusion of such information at this time.

helpful approach would be for the Subcommittee to place a time limit on the period during which SSA can first issue a notice of overpayment.

Section 704 requires SSA to subject its SSI notices to testing for readability and clarity. This provision, if implemented properly could result in major improvements in the quality of the SSI notices.

To be useful to an SSI applicant or recipient, a notice must be written in language that she can understand and must provide her with the information she needs to decide whether SSA's position is correct and what action she should take if she disagrees.

SSA is well aware that many SSI recipients are unable to read complicated notices containing large words and lengthy sentences. In 1981, in response to litigation in California, SSA proposed changes in a few of its notices of overpayment sent to SSI recipients. 46 Fed. Reg. 42337 (August 20, 1981). The purpose of the changes was to "increase SSI applicants' and recipients' awareness of administrative procedures so that they can make informed, knowledgeable and voluntary decisions in the critical area of SSI appeals." Id. at 42338. The changes were based on conclusions that "approximately 70 percent of the individuals in the SSI population have not completed the eighth grade. Of this percentage, about 30 percent had not finished the fourth grade." Id. Further, "if 70 percent of the SSI recipients dropped out of school at or below the eighth grade, it is fairly safe to estimate their maximum functional literacy skills at between a sixth and seventh grade level." Id. However, SSA noted that the "literacy lag" for welfare recipients may be even worse, often four years less than the level of schooling last obtained. Id.*

Despite SSA's apparent recognition of the literacy difficulties of many SSI recipients, it has persisted in issuing notices which provide incomplete information and are often written in language which is incomprehensible to many SSI recipients.

There are many experts, some of whom have already provided their services as consultants in litigation regarding specific SSA and Medicare notices, who are well-qualified at reviewing and testing notices and suggesting modifications and improvements in the notices which will assure that they are

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*At the Subcommittee's hearing on H.R. 5341, Sam Sadin of the Brookdale Institute on Aging and his associate, Jacob Landers, recommended that the Congress require that SSI notices be written so that they can be understood by someone with a fourth grade reading level. SSA's own figures, cited above, support this position.

well-targetted at the SSI population.

The Subcommittee should consider one amendment to Section 704. The bill currently requires that the Secretary comply in contracting with such experts "except to the extent that it is affirmatively determined...not to be feasible." While the provision is intended to provide the Secretary with some flexibility in implementing the section, it provides her with a mechanism for avoiding completely outside review of the SSI notices. If alternative language is needed, it would be more helpful to require that, in the context of the review of notices, priority will be given to all SSI notices which reduce, suspend, terminate or deny benefits or inform a person that he/she has been overpaid. This will assure that SSA reviews the most potentially injurious notices first, including subjecting the notices to the review of outside consultants. The provision could then accord the Secretary somewhat greater latitude in the time frame for completing review of all other SSI notices.

III. Section 703: Assistance to Applicants and Recipients

The requirement of Section 703 is incredibly reasonable: SSA must assist applicants and recipients in filing applications and providing other data or material required by SSA. In doing this, SSA must pay "particular attention to cases where such applicants and recipients because of their physical or mental condition" are unable to meet the rigors of the process.

Despite the fact that SSA's clientele are largely aged, blind or disabled, SSA often treats them as if they are all alike, ignoring the physical or mental limitations of many. This provision should help to assure that SSA focuses on the individual and assists in assuring that all documents are filed or procedures are followed. The Subcommittee should consider amending the language to add the following:

> The Secretary shall review all of her policies, procedures, and standards to assure that they make allowances, where needed, for the mental and physical limitations of SSI applicants and recipients.

Two examples will illustrate the need for this language and why the language in Section 703, while very helpful in many situations, may not be sufficiently broad to encompass some fairly egregious problems.

> Eunice Day, a resident of Artois, California, was 76 years old and blind when she went to the Social Security office to apply for SSI benefits. She lived on $150 in Title II benefits. After she told the SSA employee that she held a deed of trust on a

house trailer, the employee told her that she would have to transfer the deed in order to become eligible for SSI. This conversation occured months after the Congress passed the transfer of assets penalty but right before it took effect. Mrs. Day, following the SSA staff person's advice, transferred her deed to her grandson. When she then applied for SSI, SSA denied her claim because she had transferred an asset for less than fair market value. Her grandson, now incarcerated, refused to return the deed to her. The ALJ upheld SSA's decision, stating: "Much as the undersigned sympathizes with the claimant in her plight of having been caught in the confusion between a change in the law and the erroneous information given to her by an employee of the Social Security Administration as well as her efforts to cope with her advanced age and deteriorating health, the undersigned has no discretion..." Not until after Mrs. Day's complaint for judicial review had been filed in federal district court, Day v. Schweiker, No. CN 5-92-972-LKK (E.D.Cal. 1982), did the Secretary agree to award her benefits.

* * *

Mary and John Davis (not their actual names) met in a sheltered workshop in San Gabriel Valley, California. Mary received SSI primarily on the basis of mental retardation. John would have been eligible for SSI on the same basis but relied instead on his parents for support. In 1979, John obtained a CETA job training position which accommodated his disability limitations and where he learned job readiness skills such as taking supervision, following directions and punctuality. Mary and John married shortly after he obtained the CETA position. In June 1980, Mary received a notice to come to the SSA office for a review. Both Mary and John went to the office in June and also several more times in July and August. They were told that Mary's check would be reduced because of John's earnings. When the checks were not reduced, they went to the SSA office a few more times. They recall being told that SSA's computer was not working and SSA could not tell them anything and that it takes time for the change to get on the computer. When SSA caught up with its error, it informed Mary that she had been overpaid and refused to waive the overpayment on the grounds that she had been "at fault" in creating the overpayment.

The issues in both of the cases described above would

have developed quite differently if SSA had been required to consider the limitations of the claimant or beneficiary. SSA should have known that Mrs. Day, aged and blind, would rely upon its advice to transfer the asset. When she did, the proper solution should have been to discount the transfer so that she could have been found eligible for SSI.

Similarly, SSA expected Mary and John Davis, both mentally retarded, to understand that SSA expected them to hold on to funds that they had been paid improperly so that they could later repay it to SSA. As Ms. Davis' attorney noted in her brief: "It is simply beyond the capacity of [Mary] to understand the consequences of Social Security's delays unless Social Security undertakes to explain the consequences to her concretely and tells her exactly what it is she is to do."

These situations reflect very common occurences at SSA. It would be helpful if the Subcommittee's bill included language broad enough to encompass these types of problems.

IV. Discussion of Other Provisions of the Bill and Reconciliation Package

A. Section 203: Exclusion of underpayments from resources. This provision solves one of the current ironies in the system: If SSA errs in terminating a person's benefit or in denying benefits, SSA stands to benefit if there is a sizeable back award owed. If the person has not spent it within 4 months of receipt, SSA will cut the person off because he/she is over the resource limit. While the problem usually occurs in one person's case, it can involve more than one person's case within a family. See, for example, the letter of attorney Robert F. Cohen of Fairmont, West Virginia (attached as Exhibit K). Mr. Fairmont's client, William H. Jones, had been receiving Social Security disability benefits since 1977 when SSA terminated his benefits in 1982. While he appealed, he was without benefits for a few months until P.L. 97-455 (providing benefits through the administrative law judge level in Title II disability appeals) took effect. When he ultimately prevailed and SSA paid him the three months of Title II that had been withheld in 1982, SSA acted to withhold the SSI benefits of Mr. Jones' disabled minor son. If Mr. Jones' benefits had been paid in the months they were intended to cover, his son's benefit would never have been affected.

In addition to the absurdity of the current situation, this example illustrates the importance of retaining the reference to Title II back awards as well as SSI back awards. The interrelationship of the two programs often means that a person with SSI may be receiving a small Title II benefit as well. This will prevent SSA from treating the Title II back award differently from the SSI back award.

The Subcommittee should consider one amendment to this section. Unfortunately, while SSA does not consider an SSI back award to be income in the month in which it is received, it does not accord the same treatment to a Title II back award.* It would be helpful to amend the provision to assure that the Title II back award, which in the month after receipt will be excluded for 12 months, under Section 203, is also excluded from income in the month in which it is received.

B. Section 303: Personal needs allowance. Section 303 will increase the SSI benefit for individuals residing in institutions which received Medicaid reimbursement from $25.00 to $35.00 with annual indexation after that. The $25.00 figure has been locked in for over ten years. While there are questions about whether it was ever adequate, there can be no serious argument that it currently is adequate to meet the personal needs of nursing home residents and others residing in institutions. While $35.00 is also inadequate, it is an improvement and will make some difference in the lives of nursing home residents who receive SSI.

The Subcommittee should consider two amendments to this provision to strengthen it and, as a result, assure that the recipient is the beneficiary of the increase:

(1) Currently, there are some states which have acknowledged the inadequacy of the SSI personal needs benefit and have acted to supplement it. It is important that the bill be amended to require that the state pass-through the increase to the SSI recipient, rather than simply reduce the amount of the state supplement. The purpose of this modest provision should be to directly benefit the recipients, not to provide a subsidy to the states.

(2) At the Subcommittee's hearing, Mrs. Ruth Howard, a nursing home resident from Illinois testified about the incredible need for an increase to cover basic items such as shoes, clothing, transportation, postage stamps. Unless they are medically-related, these are the types of items which the personal needs allowance (PNA) is intended to cover. However, Mrs. Howard also described another situation which the PNA is not intended to cover. In the case she described, a woman's physician had prescribed medication which the Illinois Department of Public Aid said was not covered by Medicaid. Because she could not afford to pay the cost from her personal needs allowance, she went without the needed medication and eventually died. While it would be tempting to think that the PNA increase should be justified in terms of the cost of medication, the PNA is not intended to

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*See 20 C.F.R. §416.1123(d), last sentence: "This exception [when a Title II back award will not be counted as income] to the unearned income counting rule does not apply to any monthly social security benefits for a period for which you did not receive SSI."

cover medication.*

In light of the illegality of the requirement, the fact that residents may be going without medical prescriptions because their PNA is inadequate to cover the costs suggests that the Subcommittee should amend the bill to specifically require SSA or the Health Care Financing Administration (HCFA) to conduct a study to monitor the use of the PNA and investigate whether there are circumstances when it is being abused. While some abuses by providers do not justify retaining the current $25.00 figure, it is critical that these abuses be stopped. In addition, in 1977, Congress ordered the Secretary to issue regulations regarding the personal needs allowance. HCFA declined to issue regulations claiming its then-current regulations covered the issue. This is incorrect. The Subcommittee should take steps to assure that this Congressional mandate is complied with immediately.

B. Section 202: Modification of the transfer of assets penalty. The bill brings the SSI penalties for transferring an asset for less than fair market value in line with those in the Medicaid program. The Medicaid practices attempt to fashion the length of the penalty in terms of the size of the uncompensated value involved. Currently, even the transfer of a small asset for less than fair market value can result in the person being barred from the SSI program for two years. Making the SSI penalties comparable to the Medicaid penalties will help to alleviate the problems of those who make a small transfer. However, the Subcommittee should consider two alternative amendments to Section 202:

(a) The transfer of assets penalty in SSI should be eliminated. It appears that the real intent of the transfer of assets penalty was to prevent individuals from transferring assets in order to obtain Medicaid coverage. While it would be desirable to eliminate the penalty entirely from SSI and Medicaid, this Subcommittee should consider eliminating the penalty in SSI. Because the same transfer serves as the basis for the penalty in both programs, the SSI penalty actually penalizes the person twice: after the person has already been penalized in Medicaid for a defined period of time based upon the amount of the uncompensated value transferred, he/she is also denied SSI for two years or, under the bill, for the same time frame. The SSI penalty is therefore excessive and should simply be deleted.

(b) If Section 202 is retained, the Subcommittee should

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*Residents do not have to use their $25.00 personal needs allowance to pay for non-covered prescription drugs or other medical services, although they may be required to use the State supplement to the PNA to pay for medical needs, Friedman v. Berger, 547 F.2d 724 (2d Cir. 1976). See Potter v. James, 499 F.Supp. 607, 611 (M.D.Ala. 1980), relying upon 42 C.F.R. §435.725(c)(4).

act to prevent the current double-count for SSI and Medicaid. As discussed above, the same transfer will be the basis for the penalty in both SSI and Medicaid (this is also currently the case). In order to minimize this inequitable treatment, it would be helpful if the section was amended to require that the amount of SSI withheld as well as the amount of medical services withheld be added together in determining the length of time that the person will be barred from receiving benefits. This should shorten somewhat the length of time of the penalty and more accurately reflect the nature of the penalty to the person during the period: no health care benefits and no income.

C. Section 403: Modification of certain filing requirements. This provision provides relief to a group of disabled people who are forced to relinquish all health care coverage when SSA forces them to apply for another, non-disability benefit and, as a result, they lose SSI.

While there are a few categories of individuals who are affected by this problem, the calls to NSCLC regarding this problem have all raised factual situations similar to the dilemma faced by the woman described by Alice Quinlan, Older Women's League, at the Subcommittee's hearing. Typically, the SSI recipient is a widow who is disabled. When she first applied for SSI at age 54, she also applied for Title II disabled widow's benefits. The test for widow's disability under Title II is extremely restrictive. It does not take into account factors considered in the worker's disability/SSI standard such as the person's age, education, and work experience. Very few widows qualify for the benefit. Instead, because she meets the SSI disability standard and has such low income and assets, she receives SSI. In most states, she will also receive Medicaid as a result of receiving SSI. This is often critical because her disabling condition requires medical treatment. Until she reaches age 60, all goes well - she receives both SSI and Medicaid. However, at age 60, the first time that she is eligible to receive Title II surviving spouse's benefits, SSA informs her that she must apply for these benefits. When she is found eligible, if her Title II benefit exceeds the SSI level by $20.00 (the unearned income disregard), she loses not only her SSI eligibility but also Medicaid eligibility. Because she is not 65 nor receiving benefits as a disabled person, she is not entitled to Medicare coverage for five years. During that five year period, this woman whom SSA has already agreed is disabled and who, by definition, has virtually no assets to fall back upon, is left to handle her health care costs on her own.

This provision amends the statutory requirement that an SSI recipient apply for and obtain all other benefits to which she is entitled by permitting a disabled person to elect to continue receiving SSI and Medicaid rather than the slightly higher Title II non-disability benefit. The key to the effectiveness of this provision will be how well SSA implements the notice mandated by the bill. Without a complete understanding of his/her options it

is very possible that a disabled person could unknowingly agree to file an application which will jeopardize his/her continued Medicaid eligibility.

D. Section 404: Eligibility of couples living apart. This provision reduces from 6 months to 1 month the period during which a couple must live apart before they will be treated as separate households for SSI eligibility purposes. This provision is critical to many aged, blind and disabled women who, once separated from their spouse, often have no source of income. This is often true in violent, abusive situations, but it is also true in cases of desertion or any time where one spouse controls all of the couple's finances.

While it would be preferable if the time period of separation was eliminated totally, the reduction to one month represents a major improvement over the current requirement.

E. Section 204: Increase in the assets limitation. The Reconciliation bill includes a variation on this provision, easing the asset test up over a full year period from $1500 to $2000 for an individual and from $2250 to $3000 for a couple. Because the ceilings have been so low for so long, the bill's approach which provides the same increase in one step, is more desirable. However, the Reconciliation language is preferable to the current limitation.

This provision will permit SSI recipients, to the extent they are able to, to reserve a small cushion against significant bills including utility costs, house repairs, and health and home services not covered by Medicaid. Virtually every witness appearing before the Subcommittee expressed support for passage of this provision while also indicating their concerns that both the benefit level and assets limitations be increased significantly in the near future. As a result, the provision, which is essential, will not be discussed further here.

F. Section 402: Eligibility for retroactive benefits of deceased recipients. Currently, if a person applies for SSI but dies before SSA pays the benefit, SSA simply keeps the retroactive benefits owed to the deceased person. This is because the statute provides that a underpayment may only be paid to the deceased person's SSI eligible surviving spouse. Often the people hurt by this rule are the friends and relatives of young, single persons suffering from terminal illnesses. There will not be a surviving spouse who is eligible.* These relatives and friends will have assisted the person in coping financially while SSA decided the claim. Usually, there is an understanding that

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*Even if a young applicant was married, his/her spouse would have to be disabled, blind, or aged as well as low-income in order to be SSI eligible.

that these people will be repaid at least somewhat when the person receives the SSI check covering the period since the date of the application. They are often economically only a little better off than the applicant. Because SSA often takes months to adjudicate a claim, some terminally ill individuals die before they are paid. The relatives and friends will not be paid anything.

This bill assures that the SSI funds already owed to the deceased person go to those who assisted him/her before his/her death. This is only fair and should work to encourage others to assist applicants for SSI while they await payment. It should also encourage SSA to act more expeditiously in paying benefits. Obviously, it would be far more desirable if SSA would pay the SSI applicant long before his/her death.

G. Section 102: Permanent extension of the emergency assistance exclusion in the 1983 Amendments. This provision is also included in the Reconciliation package and is extremely important to many aged and disabled individuals currently relying upon non-profit organizations for some of their food and clothing. The Subcommittee should consider requiring the Secretary to report to the Congress regarding how the provision has been implemented since its enactment. Despite the fact that SSA has told the states to decide which agencies' services are covered, SSA has never issued regulations regarding implementation. The result has been a fair amount of confusion which could have been avoided if SSA had simply issued regulations on the subject. Regulations should be mandated.

H. Reconciliation package: Release of IRS information, protections for beneficiaries. Both the House and Senate bills contain various protections to assure that a federal or state agency which receives IRS information regarding a person's unearned income assures that the information is both relevant and accurate before it relies upon it. The House language on verification is superior to the Senate language in two respects:

(a) While the House bill requires verification before the agency can act to "reduce, suspend, terminate or deny" benefits, the Senate version only requires verification before benefits are "terminated or decreased." The Senate language therefore leaves initial applicants at the whim of the agency on the issue of independent verification.

(b) The House bill specifies that verification must include "(1) verification of the exact amount of the asset or income involved, (2) an evaluation of whether such individual actually has access to such asset or income for his or her own use, and (3) a determination regarding the period or periods when the individual actually had such asset or income." The Senate bill only requires thatthe IRS information be independently verified. It will be very important to retain the House verification language. If the Senate language is adopted, it is likely that

the verification will be accomplished by a computer match of a bank account record, often the source utilized for the IRS information in the first place. While arguably this is not an "independent" verification, the House bill assures that the agency will make a more accurate and relevant verification of the IRS data.

The Senate bill contains one very helpful feature not included in the House bill. It requires that, at least in termination and reduction cases, before the action can be taken, the agency must provide notice of the planned action and give "an opportunity to refute such information." It would be very helpful to retain this language. However, it should be amended to apply to any time that benefits will be "reduced, terminated, suspended, or denied" as is provided in the House bill.

Thank you for considering these comments.

Sincerely,

Eileen P. Sweeney

Eileen P. Sweeney
Staff Attorney

EPS/cjr

UNITED STATES GOVERNMENT

memorandum

DATE: August 24, 1982

REPLY TO ATTN OF: Patty Robidart
Central California Area Director

Refer to: SD948

SUBJECT: Proposed 1982-1983 Merit Pay Plan -- ACTION

TO: Merit Pay Managers
Region IX

The Merit Pay Advisory Board Met August 19-20 in the Regional Office. The purpose of this meeting was to design a proposed Merit Pay Plan for field managers for next year (Attachment II). Much of the plan is a spin off of the Regional Commissioner's proposed SES Plan (Attachment I).

The Merit Pay Plan for Region IX Field Managers (as proposed) covers the following job elements:

CRITICAL

JOB ELEMENT	POINTS
Processing Workloads Accurately	14
Processing Claims Workloads Timely	23-30
Processing Non-Claims Workloads Timely	8-10
Debt Management	8-10

ESSENTIAL

JOB ELEMENT	POINTS
Special Job Element	0-11
Effective Security Plan	3
EEO	3

Please note Job Element V. This category has been proposed so that AD/DM/ADM discussion and participation may take place to zero in on management concerns and/or projects not covered in the rest of the plan. It is an optional item, so if the decision is made not to use this job element, point values for Elements I-IV would be: (I) 14, (II) 30, (III) 10 and (IV) 10. If the full point value of 11 is used in the Special Job Element V, then point values in Elements I-IV would be: (I) 14, (II) 23, (III) 8 and (IV) 8. Of course, anything between these extremes is also acceptable.

(The Manner of Performance will remain the same as this year's plan).

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112
* GPO : 1976 O - 241-647 (3823)

As you will note, no numeric goals appear on the proposed plan. Attachment III consists of recommendations for the Field Office Performance Report (FOPR).

Recommended goals include:

RSI (two goals)	
FO Time	21 Days
Later of Date of Entitlement/Application Date to Pay	21 Days
DI (Title II)	
FO-1 plus FO-2 Time	25 Days
SSI (Aged)	
Overall Allowances to Pay	21 Days
B/D (Title XVI)	
FO-1 plus FO-2 Time	35 Days
RSI Quality	
Initial Claims	96.4
SSI Quality	95
Initial Claims and Redeterminations	
Redeterminations	
Percentage Completion by priorities	
Overpayments	
Dollar goals	
Weeks' work on hand ratio (excluding backlogged debt cases)	

As continuously stressed in this memorandum, these Attachments are proposals. Once the RC's plan is approved, the final product for the Merit Pay Plan can be completed. In the interim, we ask that all Merit Pay Managers send responses to these proposals to the ARC, FO, attention Gil Chun by COB, Tuesday, September 7th. Telephone replies may be called to Gil at (FTS) 556-7929.

If questions arise after you review of this material, please contact any of the following committee members for clarification:

Patty Robidart	AD, Central California
John Crossman	AD, Northern California
John Manley	ADM, Berkeley
Gene Williams	DM, San Diego
Mary Wilson	DM, Glendale

Thank you for your careful consideration of these matters.

Claudia Carlson for
Patty Robidart

PR:iv
Attachments

cc: Jane Presley, RC
Sally Anderson, ARC, FO
Marjo Lee, DARC, FO
Karen Dauphin, SES Committee Rep.
Area Directors

DEPARTMENT OF HEALTH & HUMAN SERVICES — Social Security Administration

Refer to: BDSea-b1

Region III
Philadelphia PA
3535 Market Street
Philadelphia PA 19101

April 16, 1982

Mrs. Rita H. Pyle
Pyle Associates, APCE 3302
8330 Old Kings Road South
Baltimore, MD 21234

Dear Mrs. Pyle:

Reference your mailgram dated April 6 and 7, 1982 which expressed your wish to negotiate on the impact and implementation of the DCC Awards.

Per my conversation with Mr. Shortley, he has advised me that he will not implement the proposed Awards.

With respect to your telephone conversation with Mr. Shortley, I have requested his chief, Chris Telephone, to discuss the matter with him during good-byes and the conversation being terminated.

Sincerely yours,

Wilfred L. King
Liaison Officer, Field

62

DEBT COLLECTOR OF THE MONTH

AWARD

presented to: [redacted]

63

APRIL
month

[redacted]
area director

DEPARTMENT OF HEALTH & HUMAN RESOURCES

Refer to

Memorandum

CL-10

Date June 18, 1982

From Area Director
Owings Mills, Maryland

Subject May Overpayment Collections--INFORMATION

To All District and Branch Managers
and Resident Representative
No. 35 (35-82)

The May Overpayment Collections were notable. The total figures are now in and $381,760.87 was refunded through cash or offset.

The order of finish was as follows:

1 Debt Collection Center
2 Catonsville
3 Frederick
4 Towson
5 Cambridge
6 Cumberland
7 Salisbury
8 Baltimore (East)
9 Hagerstown
10 Baltimore (West)
11 Baltimore (Northeast)
12 Glen Burnie
13 Bel Air
14 Annapolis
15 Westminster
16 Randallstown
17 Eastpoint
18 Elkton
19 Petersburg
20 Baltimore (Northwest)
21 Oxon Hill
22 Hancock
23 Baltimore (North)
24 Baltimore (DTN)

The "Top" Individual Collectors were:

Title II	Title XVI	SR
S. White	L. Gilbert	J. Weiss
C. Barton	L. Hyre	R. Sowers
W. Ross	D. Dorsey	H. Schools
	L. Washington	P. Bryant
		B. Howard

CDC	DCR
M. Stokely	L. Mosley
	Y. Livingston

The winners of the Area Director Debt Collectors Award of the Month goes to:

S. White	T-2 Ck, Cumberland
L. Gilbert	T-16 CR, Catonsville
J. Weiss	SR, Northeast
M. Stokely	CDC, Cambridge
L. Mosley	CR, DCC Unit

Please extend to all your employees my thanks for a job well done, and keep up the good work.

Thomas R. Shoreley

REPRINT WITH ATTACHMENT

DEPARTMENT OF HEALTH & HUMAN SERVICES

Refer to: SJ

Memorandum

Date: NOV 05 1981

AM-14-6

From: Associate Commissioner
for Operational Policy and Procedures

Subject: SSA Debt Management--INFORMATION

To: See Below
(SSA-OOPP-DMPT-81-46)

The Social Security Administration's two top operational priorities for the next two years are implementing the 1981 legislation and improving debt management. The strategy for improving debt management concentrates on debt collection. The SSA Debt Collection Action Plan (Attachment) outlines the tasks to be undertaken to meet our debt collection goals. The two major goals are:

- o to resolve old debts by the end of Fiscal Year (FY) 1983 by using special efforts; and
- o to establish policies, procedures and systems that allow us to remain completely current at all times on our accounts receivable.

In general terms, the goal is to retire debt at approximately the same rate at which new debts are established and to resolve old debts as quickly as possible.

We have begun the significant task of implementing the SSA Debt Collection Action Plan which hones in on the collection, prevention and detection of all SSA administered program overpayments.

Development and implementation of the plan is predicated on a shift in SSA's philosophy regarding overpayment resolution; i.e., emphases on recovery (rather than waiver or write-off) and on the speed of that recovery. Therefore, it is imperative that all SSA operating personnel be kept informed of the agency's position and of on-going activities. For this purpose, a General Series Program Circular has been prepared

ADDRESSEES
All Regional Commissioners
All Area Directors
All DOs/BOs/TSCs
All Resident Stations
All SSAPSC's, DHO and DOO
Thru: OCO AFS / RJ / EVans

and will be received by operating personnel by early December 1981. Basically, the circular will provide general information regarding the plan, those steps that have already been taken and the immediate role of each employee involved in overpayment resolution and recovery.

This memorandum provides an overview of debt management in SSA that includes background information on President Reagan's directive, the applicability of the Presidential Directive to SSA's accounts receivable, the problem definition, the problem solution and FY 1982 and FY 1983 projected overpayment collections.

I. Background - Presidential Directive

As a result of studies and recommendations by the General Accounting Office concerning the collection of debts owed to the Federal Government, President Reagan issued a directive on April 23, 1981 in which he noted that, "The burden of delinquent debt owed to the Federal Government continues to grow each year and is contributing to our serious problem of inflation. We must again establish the principle that debts to the Federal Government must be paid." In response to this directive, Federal agencies are required to institute " . . . an aggressive program for strengthening Executive Branch debt collection practices . . ."

The Office of Management and Budget (OMB) has provided agencies with the following objectives and guidelines for complying with the President's directive:

A. Objectives as set forth in OMB Bulletin 81-17

1. "Implementing aggressive debt collection practices to quickly recover that portion of the current backlog of delinquencies deemed collectable;

2. "Implementing effective (debt) management procedures to prevent unnecessary new delinquencies; and

3. "Taking firm action to recover newly occurring delinquencies and defaults."

B. Guidelines as set forth in OMB's Report on Strengthening Federal Credit Management - January, 1981

1. "Organizational responsibility for servicing and collecting receivables should be independent of the credit extension (benefit payment) functions in agencies."

2. "Managers should be held directly accountable for their performance in credit management and debt collection."

3. "Accurate, comprehensive, timely reporting of receivables and the condition of those receivables must be established."

4. "Increasing the in-house capability and effectiveness of agencies through the commitment of additional personnel, hardware and software for automated support. Without automated support, it would be physically impossible for most agencies to deal timely and effectively with the sheer volume of accounts."

5. "The government should be allowed to report delinquent and defaulted debtors to credit bureaus, thereby affecting their credit ratings and encouraging timely payment."

6. "The government should utilize private sector resources to supplement its collection efforts."

II. Applicability of Presidential Directive to SSA's Accounts Receivable

In order to establish a debt management plan, SSA first had to identify the sources of its accounts receivable; i.e., those items and responsible parties for which and from whom collections are to be made because of sums owed. Once it was determined that more than 99 percent of SSA's accounts receivable consist of program administered overpayments, the decision was made that the SSA plan would focus on these overpayments. The concept of "debt management" as it applies to SSA program administered responsibilities refers to two activities: collection and prevention; i.e., those activities which identify and collect monies owed to the Federal Government as a result of program overpayments and those which prevent the creation of program overpayments and ensure that potential overpayment creating situations are effectively detected and monitored.

III. Problem Definition

Although SSA's debt management performance has been improving and is expected to continue to do so, the following problems have hampered SSA's action to minimize the loss of monies caused by overpayments and associated recovery costs:

1. Lack of definitive across-the-board strategy for debt prevention, detection and collection actions.

2. Lack of ADP capabilities for the effective support of billing, accounting and management information functions.

3. Statutory, judicial, regulatory and procedural impediments to debt prevention and debt collection actions.

SSA's immediate debt collection problems are primarily associated with delinquencies in the repayment of overpayments under the Disability Insurance (DI) and Supplemental Security Income (SSI) programs. These delinquency problems are two-fold: (1) the existence of current delinquencies and (2) the trend of continual accretion of delinquencies.

A major reason for the delinquency problems is a dependency on recovery by cash collection because there is less opportunity to recover DI and SSI overpayments by benefit adjustment (offset). When offset is not available, SSA does an inadequate job of collecting its debts. These poor collection results occur because of a lack of prompt, personal attention to the pursuit and resolution of delinquencies. This conclusion is supported by the successful results obtained in a number of SSA locations when management emphasis, concentrated effort and personal accountability measures have been locally instituted.

IV. Problem Solution - Debt Management Initiatives

The SSA Debt Collection Action Plan which was prepared in response to OMB Bulletin 81-17, was forwarded to OMB on September 15, 1981. The plan is the method by which SSA will meet its commitment to improve its debt management. This plan indicates that the major SSA initiatives are:

1. Clarify and concentrate debt management responsibilities;

2. Improve and standardize debt management policies, procedures and practices;

3. Improve ADP support for debt management functions;

4. Establish improved money management incentives and procedures; and

5. Establish improved capabilities for debt management analyses and controls.

V. Fiscal Year 1982 and 1983 Projected Amount of Overpayment Collections Made by Utilizing SSA's Debt Collection Action Plan

Based on implementation of the aforementioned initiatives, the chart below summarizes for FY 1982 - 1983, the anticipated amount of overpayment collections, collection costs and the net savings. These projected figures are part of SSA's amended FY 1983 Budget.

($ in thousands)

	FY 1982	FY 1983
OASI		
o Anticipated Collections	$520,279	$823,529
o Collection Costs	82,706	82,706
o Net Savings	$437,573	$740,823

DI

o Anticipated Collections	$116,603	$133,340
o Collection Costs	31,001	29,518
o Net Savings	$ 85,602	$103,822

SSI

o Anticipated Collections:		
o Federal Assistance	$276,253	$298,007
o State Supplementation 1/	65,104	70,289
o Collection Costs	65,759	64,428
o Net Savings	$275,598	$303,868

BL

o Anticipated Collections	$ 1,168	$ 1,172
o Collection Costs 2/	306	282
o Net Savings	$ 862	$ 890

All Federal Programs

o Anticipated Collections	$1,029,406	$1,331,337
o Collection Costs:		
o Program	179,272	176,936
o Special	4,485	6,419
o Net Savings	$ 845,649	$1,147,992

1/ State supplementation collected from overpaid recipients is paid to States and thus does not produce savings for the Federal budget except to the extent that such corrective action reduces the Federal fiscal liability for overpayments. Administrative costs of making such collections are borne by SSA.

2/ Costs of collecting Black Lung overpayments are not available since this activity is captured with all post-entitlement activities in SSA's work measurement system. Amounts shown are estimates paralleling DI program experience.

In conclusion, it is obvious that the success of our Debt Collection Action Plan is dependent upon a firm commitment by all personnel. Your contributions toward the formation of the plan and its initiatives have been very helpful. In the months ahead, your opinions and assistance will continue to be solicited and you will be kept informed of all major milestones as the implementation proceeds.

Sandy Crank

Attachment

cc:
All SSA Executive Staff
Chief, Administrative Law Judge
All Regional Chief Administrative Law Judges
All Field Assessment Officers
All Hearing Offices
All OGC Office Directors

DEBT MANAGEMENT Bulletin

Memo to staff 12/14/81

ADVANCE COPY

REGION V

Social Secur
Administratior

No. 81-1

This is the first in a series of Region V Debt Management Bulletins designed to keep you informed of debt management activities. With the full support of Commissioner Svahn, activities have been developed at a rapid pace in central office, and consequently here in the regional office, in reaction to the Office of Field Operation's directives. These bulletins will contain information which will apprise field managers and technical employees of the new initiatives as decisions are being made and communicated to us.

DECISIONS ON DEBT MANAGEMENT POLICY

You will recall that the Commissioner has designated Sandy Crank, the Associate Commissioner for Operational Policy and Procedures as Debt Management Coordinator. He has made a number of policy decisions designed to intensify and increase the effectiveness of our collection efforts. Extensive development of most of these issues will be needed before they can be implemented. These decisions are being presented here, with information on the general status of implementation, as they provide a good picture of the direction we are headed:

Issue 1: Current administrative tolerances for debt collection efforts differ among SSA's programs and no longer reflect the costs of debt collection activities.

Decision: The following administrative tolerances on overpayment development will apply to all programs SSA administers:

a) Overpayment under $1 - Send automated notices; do not send manual notices. Grant waiver automatically if requested.

b) Overpayment $1 to $23.99 - Send automated notices; send manual notice if payment adjustment available or if notice is being prepared for another reason.

c) Overpayment $30 to $199.99 - Notice always sent; pursue collection except:

1) estate
2) bankruptcy
3) referral to General Accounting Office (GAO)

d) Overpayment $200 to $599.99 - Notice always sent; full pursuit except GAO.

e) Overpayment over $600 - No administrative tolerance.

Status: Systems requests are being initiated and Program Operations Manual System (POMS) instructions are being revised. These tolerances may now be used in all Supplemental Security Income (SSI) cases since SSI overpayment notices are manually prepared. They should not be used for title II or Black Lung cases until POMS instructions are received.

Issue 2: We will propose 100 percent adjustment of a benefit to recover an overpayment if full and immediate refund is not received. We should establish a policy for response if the debtor balks at 100 percent withholding.

Decision: We will negotiate repayment terms with the most lenient installment or refund agreement being a maximum of 36 months and a minimum of $10 per month.

Status: POMS instructions are being revised. You may implement immediately for SSI cases.

Issue 3: Interest and Penalties

Decision: The charging of interest for installment payments and addition of penalties for late payment are being considered.

Status: The provision is not being implemented at this time pending approval and issuance of regulations. Systems capability also needs to be developed.

Issue 4: Mandatory cross program adjustment to collect overpayments of title II, title XVI, and Black Lung benefits.

Decision: SSA is studying the feasibility of submitting a legislative proposal.

Status: The provision is not being implemented at this time as legislation is necessary.

Issue 5: Under current policy, deduction of title II benefits for repayment of overpayments is not considered income for title XVI purposes.

Decision: Define deductions for repayment of overpayments as income for purposes of title XVI.

Status: Implementation is delayed pending systems changes and further instructions.

Issue 6: Waiver can be requested at any time.

Decision: Change to allow requests for waiver only within 60 days of receipt of the overpayment notice unless good cause or a substantial change in circumstances is established.

Status: The provision is not being implemented at this time pending a regulatory change.

Issue 7: Release of information on debtors to credit bureaus and referral of uncollected accounts to collection agencies.

Decision: Commercial credit bureaus and collection agencies should be used. A pilot test will be conducted to determine referral criteria.

Status: The provision is not being implemented at this time as the Office of General Counsel review is pending.

Issue 8: Referral of certain overpayments to the General Accounting Office for collection or for referral to the Department of Justice.

Decision: SSA should cease referral to GAO and retain responsibility for collection or referral to the Department of Justice.

Status: Delay implementation until procedures worked out and revised POMS instructions are issued.

Issue 9: There are an estimated 1.5 million recipients of SSI program benefits for whom we do not have a social security number. Enumeration of these recipients would provide a valuable tool in preventing and identifying overpayments.

Decision: SSA will take action to identify and issue social security numbers to the backlog of nonenumerated recipients and tighten administrative procedures to ensure against a recurrence of this problem.

Status: Delay implementation until POMS instructions are revised.

Issue 10: There is a great deal of subjectivity in determining necessary and ordinary living expenses to determine if a recovery would "defeat the purpose of the Act."

Decision: Set specific income and resource standards to determine if recovery would "defeat the purpose of the Act" to eliminate the need to consider expenses in individual cases.

Status: Delay implementation until standards are determined and POMS revisions are issued.

POMS DRAFT REVISIONS

While work is being done to implement the above changes, the Office of Operational Policy and Procedures is revising the POMS instructions on overpayment development. The regions have each commented on a draft revision of the instructions. Decisions have been made to revise procedures to reflect a clear commitment to overpayment recovery. The POMS revisions should be issued in late December. In the meantime, the following overpayment recovery policies have been identified for immediate implementation by field offices. (These policies apply to all titles unless otherwise indicated.):

I. General Policy Statements

Philosophy of Overpayment Resolution:

SSA's philosophy in the resolution of overpayments is to (1) recover the overpayment, (2) recover the overpayment as quickly as possible, and (3) where overpayment recovery is inappropriate (e.g., waiver is approved) or impossible, resolve the debt (by correctly categorizing it or referring it to the proper authority) as quickly as possible. The emphasis in SSA's approach to overpayment resolution is on recovery because overpayments represent incorrect expenditures to trust fund or tax monies and should be recovered whenever possible. Although the overpaid person may be completely blameless in causing the overpayment, the fact that the person incorrectly (or inappropriately) received government funds is reason enough to expect repayment. In unusual circumstances a waiver of repayment of the overpayment can be allowed.

Debt Resolution Process:

The overpayment resolution process begins at the point the debt is discovered. The fact, amount, and liability for repayment of the overpayment should be communicated to the overpaid individual as soon as possible. If the overpayment is discovered because of an oral communication (telephone call or interview), the liability for repayment of the overpayment should be communicated during the first oral contact. Written notice regarding the overpayment is always sent. The written notice should always request full and immediate refund. Whenever the liable person is in payment status, the notice should propose withholding of all benefits until the overpayment is recovered, unless full refund is received within 30 days of the notice.

If the liable person requests a lower rate of withholding or an installment repayment plan, the fastest repayment plan possible should be negotiated. This repayment plan should never exceed 36 months and should never involve monthly payments less than $10. Where the liable person claims he cannot repay the debt this quickly, he must document all of his income, resources and expenses, and SSA will decide the proper repayment plan.

to pay a portion of the debt immediately and be relieved from further liability), the compromise can be accepted if it is for at least 60 percent of the debt or if it represents the most a person can pay based on his income, resources, and expenses. (When payment offset will be available within the next 3 months, compromise is only allowed if the offer is for at least 80 percent of the debt.)

If the liable person requests a reconsideration of the finding that led to the overpayment, this request for reconsideration should be treated in the same manner as any other request for reconsideration (i.e., not involving an overpayment). The reconsideration request should be processed as quickly as possible to enhance the agency's potential for collecting the overpayment if the reconsideration results in a confirmation of the overpayment.

If the liable person requests waiver of repayment of the overpayment, the request should be developed. A request for a waiver of repayment is a request for a very serious concession on the part of the government. In order to qualify for a waiver of repayment of an overpayment, the liable person must always be found to be without fault in causing or accepting the overpayment. In addition, the person must prove that it would "defeat the purpose of the Act" to collect the overpayment; or that it would be against equity and good conscience to collect the overpayment.

Control of Overpayment Repayment

After response (or lack of response) to the initial notice of overpayment, overpayments are considered collectable if there was no request for waiver or reconsideration. If the overpayment is to be collected by payment adjustment, the system will control the collection of the overpayment (after any necessary initial triggering of the automatic payment adjustment). If payment adjustment stops before full collection of the overpayment, a notice requesting full refund of the remining overpayment should be sent.

On all overpayments that are to be repaid by refund (in full or by installment payments), very strict control of the account must be maintained in order to ensure maximum "collectability" of the overpayment. If possible, the responsible office should send monthly bills for installment payments due and should develop a special procedure to address delinquency in overpayment repayment. As an overall goal, the special procedure should identify delinquencies within ten days of when the payment should have been made and, through a combination of mailing dunning letters, making telephone calls, and making personal visits, prevent the debt from becoming delinquent for three months in a row.

When the debtor does not respond to SSA's requests for repayment; or when he or she responds that he is unwilling to repay the overpayment, there are four possible actions which SSA can take: (1) request repayment of the debt through payment offset from persons who have contingent liability, (2) suggest a "compromise" proposal to the liable person, (3) refer the case to GAO (which will make a final collection effort and refer the case to the Department of Justice for suit if appropriate), or (4) suspend collection of the overpayment (catalogue the overpayment as a "bad debt"). When any of these actions are taken, the liable person should be notified. In the case of the suspension of the pursuit of the collection, the notice to the liable person should inform him or her of the liability for the debt and of the fact that future program payments will be withheld to collect the debt. For certain categories of bad debt, SSA will occasionally remind the liable persons of their debt and request repayment.

II. Specific Policy Changes

NOTE: As mentioned above, the POMS overpayment instructions (in GN 02201-02260) are being revised and new transmittals will be issued. Although the specific POMS instructions are not out yet, the following procedural changes can be implemented on a case-by-case basis. Other, more specific, changes will be implemented by the new transmittal. These changes apply to title XVI only unless otherwise specified:

Administrative Tolerances

The tolerances explained under Issue 1 in the "Decisions on Debt Management Policy" portion of this bulletin should be implemented for SSI overpayment development effective immediately.

Refunds

In every overpayment, full refund is the preferred method of repayment (all titles).

Notices

All initial notices of overpayment will include a request for refund. When adjustment of current benefits is possible, 100 percent adjustment will be proposed. Title XVI letters, SSA-8170U2 and SSA-8173U2 are obsoleted. The SSA-9171U2 should be used. It is suggested that DO's "bill" debtors who are paying on monthly installments and they should establish strict follow-up controls. (The attached exhibit contains a sample billing format.)

Adjustment

If a debtor requests withholding of a current payment at a rate other than 100 percent, we may adjust at a rate no lower than $10 per month and not to exceed 36 months. If the debtor requests adjustment at less than $10 per month or for a period to exceed 36 months, financial hardship must be established. If an individual whose overpayment is being withheld becomes ineligible for benefits, the remainder of the overpayment must be refunded within the original 36 month period. Also, adjustment of a title II check to recover a title XVI overpayment should be suggested by the DO.

Referral

When an overpayment is referred to GAO a certified notice should be sent to the individual.

Compromise Offer

If the debtor has proposed a compromise offer and offers a payment, the DO should accept the payment and provide a written receipt which clearly indicates that acceptance of the payment does not represent acceptance of the compromise offer. Also, criteria for acceptance of a compromise has been changed to accept an offer of 60 percent (formerly 75 percent); if collection be anticipated to be available within three months, the offer must be 80 percent. Compromise settlements must now be paid within 30 days of acceptance of the offer.

Fragmentation of an SSI Overpayment

The prohibition against fragmentation is eliminated. Overpayments may now be addressed for prior closed quarters even if the current quarter cannot be addressed.

Reconsideration

Waiver development is no longer routinely undertaken when an individual requests reconsideration. Also, if adjustment has been initiated and the recipient requests reconsideration within 10 days, reinstate but do not repay any amount withheld.

Summary

The total outstanding debt due SSA at this time has accumulated to about $1.9 billion. The initiatives listed here, as well as many more which will be forthcoming, will enable us to give full support to the Commissioner's expectation that we can substantially improve our collection performance.

Our next issuance in this series of bulletins will provide information on several model debt collection units which will be established in this region in the next few weeks. Regional training plans and other policy and procedural changes will also be covered.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Social Security Administration

Refer to:

250 Monroe NW
Grand Rapids MI 49501

May 25, 1982

Dear Director:

Recently President Reagan ordered the heads of all Federal Departments and Agencies to institute more effective debt collection practices and better credit management. President Reagan said, "We must again establish the principle that debts to the Federal Government must be paid."

Based on this directive, Social Security Commissioner, John Svahn, has ordered that debt management be a number one priority and that special debt collection units be set up in every district office to control all overpayments more closely. The Grand Rapids office is responsible for the control of overpayments in the following counties: Kent, Newaygo, Barry, Montcalm, Ionia, Allegan, and part of Ottawa.

Initial emphasis is on collecting the entire overpayment in a lump sum. Installment payments, while discouraged, will be accepted. Interest and penalties may be instituted on late installment payments in the near future.

In very rare circumstances, a request for waiver of the overpayment will be considered. If waiver is to be approved, the Administration must find that both conditions of without fault and inability to repay the overpayment are met. These cases are very rare.] ←

The normal appeals process (reconsiderstion, hearing, Appeals Council review, court action) is available within the 60 day time frame allowed for appeal. The appeals process should be used only if the individual disagrees with the accuracy of the overpayment, i.e. the amount of the overpayment or reason for its occurrence.

This information is provided to keep you informed of our current policies regarding all overpayments. I know that often your agency receives inquiries which should be directed to us. If you have any questions, please contact us at 456-2241.

Sincerely,

Robert P. Flemings

Robert P. Flemings
District Manager

SI/111

LA PUBLICATIONS
CURRENT PUB OVERPAYABLE
REPORT

(03)

OFFICE	Total 83 Publications		Clearances		Waivers		Total Pre 1982 Pubs		Clearances		Waivers		
	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	
Los Angeles	1033	383,422.19	741	69,121.44	Ø	Ø	9	9,264.62	Ø	Ø	Ø	Ø	
Lotta	1865	344,832.32	819	345,448.1	1	3.57	25	32,440.25	6	3,399.36	Ø	Ø	
Glendale	456	217,376.8	115	54,124.32	4	438.47	2	891.69	2	3,122.13	Ø	Ø	
Lancaster	260	98,853.76	95	15,141.21	4	2655.13	4	3692.99	Ø	Ø	Ø	Ø	
Lawrenceville	99	50,412.00	61	26,120.65	5	2196.00	1	713.00	Ø	Ø	Ø	Ø	
Glendale	959	429,461.79	201	93,405.51	13	9316.46	7	5,253.47	2	3,122.13	Ø	Ø	
Hollywood	814	340,452.3	2	1,436.00	Ø	Ø	46	31,716.23	7	5,496.47	Ø	Ø	
Wilshire Center	349	142,399.52	21	10,691.92	Ø	Ø	60	34,128.51	3	1,120.00	Ø	Ø	
Riverside Hills	276	126,453.59	13	3,570.59	1	121.20	Ø	Ø	3	1,248.09	1	100.00	
Glendale	1543	767,185.63	86	15,574.49	1	121.20	106	62,812.49	13	8,252.61	1	100.00	
Washington Park	400	214,403.77	161	114,777.14	6	11,711.51	Ø	Ø	Ø	Ø	Ø	Ø	
University Village	149	26,180.23	21	16,674.61	Ø	Ø	22.9	191,224.64	12	1,182.51	Ø	Ø	
Downey	98	24,555.77	1	1,237.69	Ø	Ø	18	3818.24	Ø	Ø	Ø	Ø	
Glendale	1277	565,454.73	190	135,465.53	6	11,711.51	210	317,001.69	12	1,182.51	Ø	Ø	
La Jolla	519	211,200.45	39	30,120.00	Ø	Ø	13	15,448.00	3	4272.00	1	486.58	
San Bernardo	305	134,114.00	74	53,241.00	Ø	Ø	4	4,120.00	Ø	Ø	Ø	Ø	
Mt. Holly Lot	244	248,489.00	91	65,501.00	5	15.00	5	1,161.00	Ø	Ø	Ø	Ø	
Glendale	1113	1,014,422.00	204	133,203.00	5	15.00	22	20,729.00	3	4272.00	1	486.58	
Area Totals	5702	3,150,084.9	1661	822,153.71	26	21,344.94	411	334,860.12	36	24,803.57	2	496.58	

154

LA PUBLICATIONS
BOX OFF BILLING
REPORT

Page 4

(03)

	Total 83 Publications		Clearances		Waivers		Total Pre 1982 Pubs		Clearances		Waivers		
	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	#	$ Amount	
Los Angeles	541	310,734.74	59	44,031.42	1	121.20	202	204,716.21	8	14,158.29	1	137.00	
Lotta	199	168,247.1	51	44,031.42	Ø	Ø	245	237,011.61	21	23,013.37	1	9,521.42	
Glendale	257	318,234.74	3	2,411.2	Ø	Ø	29	31,727.82	1	3,731.17	1	137.00	
Wilshire	145	78,427.5	5	1,511.81	Ø	Ø	9	12,812.00	1	4,500.00	Ø	Ø	
Glendale	345	78,427.5	9	3,923.01	Ø	Ø	22	17,411.00	2	4,500.00	1	413.00	
Glendale	2337	1,014,422.00	127	100,009.69	2	121.20	507	503,679.64	33	50,903.83	3	1,284.50	
Glendale	1	1,014,422.00	3	1,511.81	Ø	Ø	1	1,511.81	1	1,511.81	Ø	Ø	
Glendale	345	78,427.5	9	3,923.01	Ø	Ø	22	17,411.00	2	4,500.00	1	413.00	
Glendale	2337	1,014,422.00	127	100,009.69	2	121.20	507	503,679.64	33	50,903.83	3	1,284.50	

155

F

SSA TRAINING

DEBT MANAGEMENT

COLLECTION TECHNIQUES

INSTRUCTOR GUIDE

SOCIAL SECURITY
ADMINISTRATION
Office of Management,
Budget and Personnel
SSA Pub. No. 25-319
January 1982

SEGMENT III - RESPONSE PHASE

PREPARATION

If time has elapsed since the class viewed the previous segment review the five steps involved in the "Statement Phase" of a collection call.

This portion of the tape discusses the overpaid individual's response, what he says back to the collector as to why he cannot or will not pay all the money today.

PLAY VIDEO TAPE (approximate length of segment: 4 minutes,
approximate counter reading: 413)

REVIEW EXERCISE

Have the students read SEGMENT III - RESPONSE PHASE in their Student Workbooks. This section lists common excuses and allows room for them to add to the list.

List of Common Excuses

- I'm unemployed.
- I'm sick.
- I have too many bills.
- I can't even feed my family on my income.
- Since my checks stopped I haven't been able to meet my living expenses, let alone repay the overpayment.
- I have too many medical bills.
- I've already spent that money (the overpaid amount).
- My expenses keep going up and you stopped my check.
- Since my SSI stopped I no longer have medical assistance and must pay my medical bills myself.
- The overpayment was not my fault.
- If I wasn't entitled to the checks, you shouldn't have sent them to me.
- The person who received the overpayment died, and I don't feel I should have to repay it.
- The overpaid person has mental problems.
- You stopped my disability checks because you say I'm no longer disabled, but I'm still too sick to work.
- I dropped out of school and don't have a job.
- I'm still in school and have no income.

When they have finished reading this section and adding their own list of excuses, have them discuss the excuses which they frequently hear. Tell them to keep their lists for the next exercise.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Refer to:

Social Security Administration
DEBT COLLECTION UNIT

710 TWIGGS STREET
P.O. BOX 30
TAMPA, FLORIDA 33601

Gen Del
Tampa, FL 33602

Aug 2

NOTICE

WE HAVE NOT RECEIVED PAYMENT ON YOUR ACCOUNT. WE MUST DISCUSS THIS TODAY. PLEASE CALL ME WITHIN

48 HOURS

PHONE: 228-2832

SINCERELY,

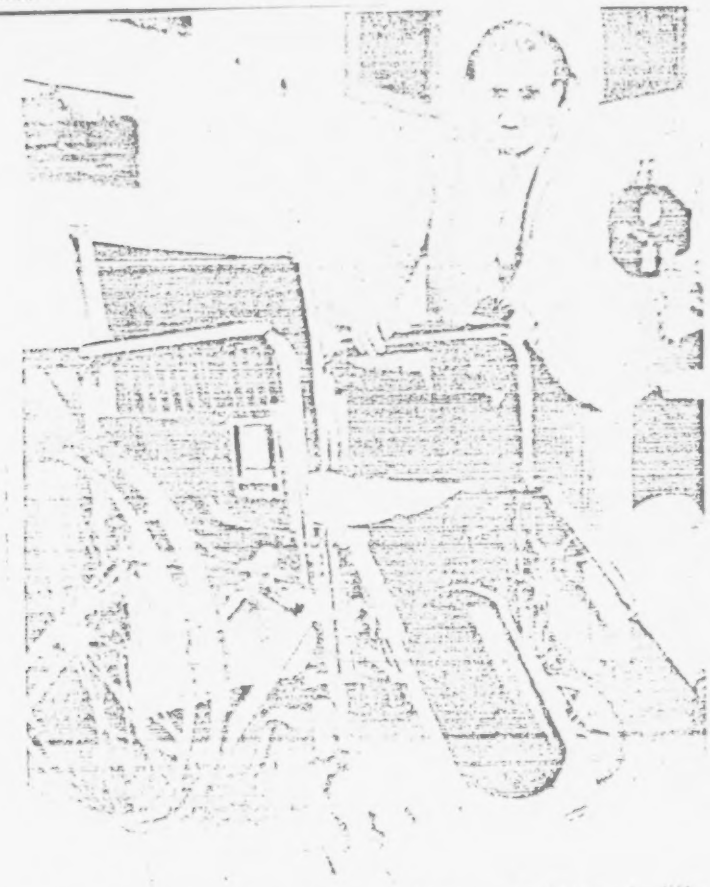
Mrs. Baquedi

DEBT COLLECTION REPRESENTATIVE
DEBT COLLECTION CENTER

Notice from SSA re: ad
ministrative claim

Philadelphia Inquirer

Philadelphia Newspapers Inc. Thursday, June 30, 1983



A PICTURE OF DETERMINATION is Marie Davap of Seattle, who said she would sell her wheelchair to make ends meet after the Social Security Administration told her that she had been overpaid $4,013 in benefits — and would have to repay them. The agency has said it would reconsider its order because it was at fault in the overpayment.

REGIONAL

SSA PROGRAM CIRCULAR

Supplemental Security Income

No. 82-10 New York Region Date: 7/1/82

CHECKS AND MORE CHECKS

Below are clarifications on some general questions that we received regarding SSI checks.

1) Double Check Negotiation or SF-1184

Offices should not be requesting SF-1184s when a DCN (double check negotiation) indicator of "9" is in pay flag 1 of the PHTH segment. The SSIORS (Overpayment Recovery Staff) in Baltimore has photocopies of SSI checks whenever a DCN indicator of "9" is posted. When a recipient alleges nonreceipt of a check which has a DCN indicator, photocopies of the two checks are obtained from SSIORS as explained in SSI 14176. Even if the recipient alleges nonreceipt of only one of the two checks, the photocopies of the checks are obtained from SSIORS. All situations where the SF-1184 procedure should and should not be used are listed in GN 02408.105.

2. SF-1184 Requests and the Statue of Limitations

The law provides a 6 year statue of limitations against the Treasury Department. Consequently, Treasury destroys negotiated checks 6 years and 9 months after the checks are presented for payment. Since this is so, it may seem unnecessary to implement the SF-1184 procedure when the check in question was issued over 6 years ago.

However, the basic reason for requesting the SF-1184 after the 6 year limitation has expired is to determine if the check is still outstanding. At the time of the interview the claimant should be told that if the check was negotiated, we can only presume that he/she received the check(s) in question.

In these cases the Treasury Department will only advise whether the check has been negotiated or is still outstanding. They will not furnish photocopies since as far as they are concerned, there is no claim since the statue has expired.

Development, however, should always be undertaken in overpayment cases even when the statue has expired. The Administration's position is that we can proceeed using payment data appearing on the SSR and verified by Treasury. If the recipient appeals the overpayment, it is likely that an administrative law judge will reverse the decision if check copies are unavailable, however, anticipation of the reversal should not preclude proper development.

ROBERT F. COHEN, JR.
ATTORNEY
408 DEVENY BUILDING
FAIRMONT, WEST VIRGINIA 26554

Office: 304/363-1049

March 15, 1984

Mr. Bruce Fried
National Senior Citizens Law Center
1302 18th Street, N. W.
Suite 701
Washington, D. C. 20036

Dear Mr. Fried:

I am writing to outline the facts in the recent situation we discussed, in which the Social Security Administration imposed an unfair offset against a child's SSI benefits.

My client, William H. Jones of Farmington, West Virginia, has received Social Security Disability benefits under Title II of the Social Security Act since approximately 1977. Mr. Jones is married and has two dependent sons. One of these sons, William H. Jones Jr., collects SSI benefits based on his own disability.

In the summer of 1982 the State Agency made a determination that Mr. Jones was no longer disabled, and that his Title II benefits should cease. The Title II benefits to Mr. Jones and his family were terminated in the fall of 1982. On behalf of Mr. Jones I appealed this cessation decision. In January, 1983, the Title II benefits were resumed on an interim basis pursuant to the recent Congressional amendments, pending the outcome of the appeal. Meanwhile, however, Mr. Jones and his family had lost three months of Title II benefits. A hearing was held before an administrative law judge, who determined that the cessation decision was incorrect and that Mr. Jones should be reinstated to his Title II benefits. This decision was implemented by the Social Security Administration and in July, 1983, Mr. Jones and his family received the three months of Title II benefits which otherwise would have been paid on a monthly basis at the end of 1982.

When the family received the previously-withheld three months of Title II benefits in July, 1983, the Social Security Administration computed these benefits so as to offset the SSI benefits payable to William H. Jones Jr. in July, 1983. This resulted in a reduction of the SSI benefits to William H. Jones Jr. in the amount of $262.30.

I have argued to the Social Security Administration that it was wrong for them to deal with the situation in this manner. Obviously, the decision to terminate Mr. Jones Title II benefits was erroneous, as evidenced by the fact that the Social Security Administration agreed to the administrative law judge's decision reinstating those benefits. If the termination decision had never been made, then there never would have been a lump sum in past-due benefits paid to Mr. Jones in July, 1983, and hence there never would have been this offset against the son's SSI benefits. Since the problem was originally caused by Social Security, and since the Social Security decision terminating Mr. Jones is obviously wrong, I have argued that the past-due benefits received in July, 1983 should be deemed to have been received in the three separate months at the end of 1982. However, my argument has been rejected by the Social Security Administration.

There are other aspects of this situation which I also believe to be unfair. For example, I have argued that the past-due benefits received in July, 1983 should be considered as "income received infrequently or irregularly" and so excluded under 20 CFR 416.1161(a)(14) and 416.1124(c)(6). However, Social Security has also rejected this argument, stating that it is all income from the same source.

My main point, however, is that the Social Security Administration should not use its own mistake as a basis for reducing the SSI benefits otherwise payable to William H. Jones Jr.

Thank you for your assistance in this matter.

Sincerely,

Robert F. Cohen Jr.

RFC:cw

Recommended Modifications to H.R. 5341

1. Language should be added to the bill which requires SSA to consider waiving the overpayment when it is at fault, before the notice of overpayment is ever issued. (Page 5, item 4)

2. Language should be added which sets a time limitation on the period when SSA can administratively initiate overpayment recovery procedures. (Pages 9-10)

3. Section 102 (emergency assistance provided by non-profits): The Subcommittee should require HHS to report to the Congress regarding how the provision has been implemented since its enactment and require issuance of implementing regulations. (Page 18, Item IV-G)

4. Section 201 (limiting the overpayment where the person's resources exceed the limit): The approach taken in the House Reconciliation package is preferable to the one included in H.R. 5341, although either is superior to SSA's current practice. (Page 7, item B-3)

5. Section 202 (modification of the transfer of assets penalty): The penalty for SSI should be eliminated. Alternatively, the bill should require that the cost of the loss of SSI be added to the cost of loss of Medicaid in assessing the time the person will be deprived of both benefits, so as to avoid a double penalty. (Pages 15-16)

6. Section 203 (exclusion of underpayments from resources): The provision should also provide that a Title II retroactive award will not be considered as income in the month in which it is received. (Page 13)

7. Section 303 (personal needs allowance): (1) There should be a requirement that the states which supplement the PNA must pass-through the federal increase to the recipients. (2) The Subcommittee should instruct HHS to conduct a study to monitor the use of the PNA and investigate whether there are circumstances when it is being abused. (3) The Subcommittee should take action to assure that HHS issues the PNA regulations which Congress required them to issue in 1977 but which have never been issued. (Pages 14-15)

8. Section 501 (limitation on recoupment rate): An exception to the $10.00 minimum should be created for SSI recipients who reside in institutions and only receive $25.00 monthly (or, if increased, $35.00). (Pages 6-7, item B-1)

9. Section 506 (overpayment notices): SSA should also be required to tell the person (a) whether any amount of the

overpayment has previously been repaid, and (b) whether responding to SSA will reactivate a case where the six-year statute of limitations on civil cases has already expired. (Pages 8-9)

10. Section 703 (assistance to applicants and recipients): The language should be amended to require the Secretary to review all of her policies, procedures, and standards to assure that they make allowances, where needed, for the mental and physical limitations of an SSI applicant or recipient. (Pages 11-13)

11. Section 704 (SSI notices): The language "except to the extent that it is affirmatively determined...not to be feasible" should be deleted. More appropriate alternative language might be to permit the Secretary to contract for the review of SSI notices on a priority basis, focussing first on notices which reduce, suspend, terminate or deny benefits or inform a person that he/she has been overpaid. (Pages 10-11)

12. Reconciliation bill (access to IRS information): The verification provisions in the House bill are superior to those in the Senate bill. However, the notice and hearing provision in the Senate bill should be retained. (Pages 18-19)

FOR THE RECORD

TO SUBCOMMITTEE

John J. Salmon, Chief Counsel
Committee on Ways and Means
United States House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Salmon,

We, the undersigned Long-Term Care Ombudsmen, are writing to support provisions within H.R. 5341 and S. 2569, the "SSI Equitable Improvement and Reform Amendments of 1984," relating to increases in the personal needs allowance (PNA) for institutionalized recipients. This provision would increase the benefit standard from $25.00 to $35.00 per month. We ask that our comments be included as written statements for the record during hearings on these bills.

Although Medical Assistance (MA) pays for many of the medical needs of the institutionalized SSI recipient, MA cost reductions have increased the number of medications which must now be purchased by the resident from his PNA. In many states, MA does not provide payment for such things as eyeglasses, dentures, hearing aids, orthopedic shoes and wheelchairs. In addition, very often the resident must pay for absolutely essential services such as personal laundry and haircuts. Although our Programs strongly believe these services should be included in the facility rate, it is, at present, a wide-spread policy. These expenditures alone can completely exhaust monthly benefits and leave nothing for the purchase of other small ammenities.

As Long-Term Care Ombudsmen from various states, we have compiled the following list of typical needs of a nursing home resident: Hand lotion, cosmetics and toiletries; postage stamps and stationary; telephone calls, generally from pay phones; and clothing (i.e., pajamas, nightgowns, robes, slippers, housedresses, shirts and pants, stockings, shoes and sweaters.) Clothing items are particularly critical. For many residents the clothes they wear are their only personal possessions and the last remnants of any pride of ownership. However, one of the more serious concerns we find nationwide is the high incidence of "lost" clothing in nursing homes. Most often, the facility will not assume responsibility and the resident is faced with an almost prohibitive expense of replacing his missing clothes.

This list does not include such things as cigarettes for the smoker, snacks or soft drinks. We note that better than 60% of nursing home residents are without families or regular visitors who might otherwise provide some of these "extras". It is obvious that $25.00 a month, or 80¢ a day, is entirely inadequate.

The ability to make small purchases and to have control over ones finances which the PNA provides, supplies a quality of independence to the nursing home resident which, in turn, increases his self-esteem and personal dignity. We believe that SSI intended the PNA for this purpose in its original provisions. While we recognize the need for better accounting of the PNA to assure that the money is used as directed by SSI, we believe this should be treated as an issue separate from the actual benefit increase itself.

We strongly recommend that the PNA be increased to $35.00 per month and that the provisions within H.R. 5341 and S. 2569 be amended to mandate the states to pass the increase through to the nursing home resident. This is necessary to assure and insure that the SSI nursing home recipient receives the benefit of the ten dollar increase.

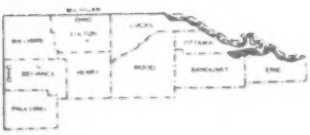
Thank you for the opportunity to comment.

Sincerely,

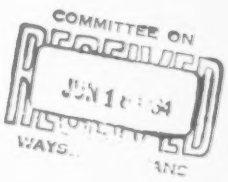
Barbara Rascona Regional Ombudsman State Dept on Aging, Gov Council On Aging
Suzy Boyet, Local Ombudsman La. East Baton Rouge,
Mary Winslow, State Ombudsman, Jackson, Ms.
Janis Heller, Assistant State Ombudsman, Frankfort, Kentucky
Ogle Branan, Los Angeles County Coordinator, CREOP
Susan Ingle, Voices, Evansville, Ind
Susan Lansbery for TLC Ombudsman Program, Somerville, Mass, 02144
Irene Medley, Statt - Flint, Newnan, Ga.
Ellen Roberts, State Ombudsman Program Atl. Ga.
Sally Maxwell, Long Term Care Ombudsman, Duluth, Minnesota
Virginia Dept VA Dept for the Aging, Long-Term
Care Ombudsman Program
Comment Consideration should be given to increasing the PNA of SSA recipients also.
Thank you
Cornelius Sheehan, Ombudsman, New Orleans, La.
Paula Salean Regional Ombudsman, Monroe, La
Sister Mary Gregoria Rack, Long Term Care Ombudsman, Tampa, Florida
Anna C Wallace P.O.B 330 Vinita, Ok 74301, NECO Area Agency on Aging Ombudsman Supv.
Jean Ward, Assistant Nursing Home Ombudsman, Chic Department on Aging

Jim Vaginess, State Ombudsman, Minnesota Board on Aging
Long Term Care Ombudsman Program
Barbara D. Flom, Ombudsman, Jeanp, Be.
Nellie J. Hill, Ombudsman, Jeanp, Be.
Marita Rogers, N.H. ombudsman PSA 2 Dayton, Ohio
Karla Altman, Long Term Care Ombudsman Coordinator, S.E. Ga
(Waycross, Georgia)
Connie Sanders LTCO Cook Doughsville, Ga.
Nikki Faber RNMA, Dir of Resident Management, All Seasons Living Centers, Seattle Wa.
Jane C Cox, N.H and Boarding Home Ombudsman, Maine Committee on Aging
William Brown State Ombudsman, [illegible] Ec. Calif.
Jocelyn Celeck State ombudsman, Concord, N.H.

[redacted]
Holli Smith, Mich LTC Ombudsman, 900 W. Ottawa, Lansing 48915
Barb Herbster Cleveland Housing Home Ombudsman 3800 Bro. - Cleveland Oh 44113
Virginia Fraser colo. LTC Ombudsman 1565 Clarkson Denver Co. 80218
Jay Wilbur, Coordinator, LTCOC 491 NW 2 Ave Miami, FL. 33128
Dyan Buchman LTCOC 1980 Coord State Ombudsman Miami FL 33101
Doug Blakley St. Ombudsman PO Box 232 Capitol Station, Columbia, Mo 65102
Rita Kramer State Parish Ombudsman Rt 5 Box 128 Minden, La. 71055
Deborah Lowes [illegible]ker Ombudsman Program Coordinator Baton Rouge, LA 70791



NURSING HOME OMBUDSMAN PROGRAM
Planning and Service Area - 4
1814 Madison Avenue • Toledo, Ohio 43624 • PH. 419/242-7304



June 12, 1984

John J. Salmon, Chief Counsel
Committee on Ways and Means
United States House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Salmon:

This letter is in regards to S.2569 the "Supplemental Security Income Equitable Improvement and Reform Amendments of 1984".

We strongly support passage of this very important Bill. We particularly find in the Nursing Home Ombudsman Program the need for an increase in personal allowance for residents of nursing homes. In many of our visits with residents of nursing homes, we find that the $25.00 allowed does not meet the minimal needs of many residents.

The immediate raise to $35.00 a month allowance and a yearly cost of living increase is a progressive step. We know the Bill will improve the quality of life for residents who depend solely on this allowance for necessities not included in regular nursing home care package.

Sincerely,

Hazelle J. Harding,
Director

HJH/slw